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SPEECHES AND MINUTES

OF

THE HON'BLE KRISTO DAS PAL, RAI BAHADUR,

C. J. F.

1867—81,

EDITED BY

RAM CHANDRA PALIT,

Editor of the Speeches of Baboo Surendra Nath Banerjee,

Calcutta :

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INTRODUCTION.

THE publication in a collected form of the Speeches and Minutes of a native of India is a novel venture, and it is necessary that I should offer some explanation for having undertaken it. It may be said that such a publication is not called for unless there is something especially meritorious in the man or in his intellectual products. For my own part I am perfectly convinced that in the present case the man and his works are alike remarkable. But I wish it to be known that though I hold in high esteem the character and attainments of the Hon'ble Kristo Das Pal and his services to the country, I have not been prompted to this task simply by a feeling of admiration. Indeed, if my object were to present to the public a correct estimate of the man and his services, I should have to do a great deal more than reprinting his speeches and minutes. I should have to give a biographical account,—to describe his early history, to mark each step by which he has risen and the manner in which he has risen, to examine and estimate the sort of difficulties he has had to face and the manner in which he has overcome them. I should have to give some account of his numerous and varied contributions to journalistic literature. Further more, I should have to give the history of every public measure in the discussion of which he has taken a leading part. But I have no occasion to go over so large a ground because it is not my purpose here to ascertain the worth of the man or his services. The speeches and writings which constitute this volume speak for themselves and I need add no commentary. I have confined myself to the speeches made by Baboo Kristo Das Pal in the Bengal Legislative Council and at public meetings and to some of his minutes upon which I could lay my hands but as this volume

has become bulky I have not been able to find room for many of the important addresses which he has delivered at the meetings of the Municipal Corporation within the last nineteen years. I should add that I have not submitted the speeches and minutes to the author for revision. I have thought fit to collect and arrange them in a systematic form because in the first place such a procedure has the advantage of bringing to a point much of the labours of a life which has been no less useful than distinguished. There is an obvious gain in being able to perceive at a single glance a great deal of the material which has gone to the building up of a great reputation, and also in being able to recollect by a desultory turning over of the pages the leading topics which have occupied the public mind from time to time for several years. This reason is purely æsthetic. There are however, other considerations of a very practical nature which have weighed with me. It appears to me that such a collection as the one I am offering to the public exercises a beneficial influence as well on the person whose fragments are brought together and arranged as on the younger generation. The gentleman whose writings are published is given the opportunity of looking at the sum total of his labours at a given period of his life and judging for himself of the sort of evidence which will be placed before posterity to enable it to arrive at a proper verdict. He is reminded of the actual amount of work he has done and of the portion that remains to be done. One writing even a small essay has occasion to look over and over again on the portion he has already written, to see if the ideas which were within him when he commenced to write have received a full and adequate expression and, if not, to work on and finish. Even so and all the more so, must one who has a great part to play in public life look back and take stock of what he has already accomplished and, if necessary, reflect on the best means of executing his unfinished life-designs. A compilation such as this is therefore valuable to him whose writings are compiled.

It is even more valuable to the rising generation. It gives definiteness to their ideas of a useful career and shows them precisely the sort of qualities that help a man in being serviceable to society. Young men have the primary duty of learning the lessons of the experience of older men. They must discover the paths by which older men did advance and also discover the shoals and quicksands which may have impeded their advance. If every generation must think out every problem from the commencement, perfectly independently of what past generations may have done, where is the good of its being born later into the world? If we are to achieve any progress we must continue the existence of our fathers. We must know exactly what they have done and what they have left undone; and we must know also the methods which in their hands did prove successful and those which did not. Especially welcome, therefore, to the young man is a record of what an older man has done and how he has done it. A record of Baboo Kristo Das Pal's work is eminently suited as an example to a young native of Bengal bent upon acquiring a practical habit of mind and proving practically useful in the discussion of important public measures. It is the commonest spectacle in this country to see a young man very well educated leaving college with an honest intention of keeping up his studies, of mastering the details connected with every public question, of instructing and inspiriting the indolent members of society and then after a few months scribbling in the newspapers, abandoning all his old projects as Utopian and unreal, and sinking into a life at once aimless and despondent. The pavement of good intentions is nowhere more delusive and disappointing than in the mind of the Bengalee youth. Burning with a zeal for reform, for revolution, for progress in every conceivable direction, and possessed of weapons of the newest fashion—mostly consisting of set phrases from Bentham and Mill and Spencer—for hewing down the prejudices of his countrymen, reforming the laws of his country and

advancing the cause of truth, the Bengalee youth begins his public career by writing leading articles, essays and lectures, sometimes by starting new journals or organizing associations. In a short time, this investment of time and labour turns out to be unprofitable. The leading articles do not attract attention. The lectures and essays are forgotten the day after they are read. The journals die ; the associations languish. Worst of all, these enterprises do not yield money. The young man as he grows old laughs at his own adventures, looks with contempt on younger men who take to similar pursuits and live to learn in a ripe old age that the quintessence of wisdom is in the repudiation of all efforts save those which go to fill the purse and that this agreeable process is incompatible with other efforts. Meanwhile the next generation grows up and acquires precisely the same wisdom by the same experience. It is not pleasant to shake the equanimity of young men but it is just as well to tell the young men of to-day that when they write leading articles and talk of progress, they are doing nothing new. The gospel of progress is an old one. No new light has been vouchsafed to the newly-fledged graduate. His father or the contemporaries of his father also wrote leading articles and also were the apostles of progress. The youthful scholar if he is not to be completely wrecked must remember that efforts similar to his were made by older men and they were wrecked. Either he must strike out a new path, or be more wary, or have a firmer will and get the aid of better guides. The life of Baboo Kristo Das Pal will serve as a beacon light. He received a very good collegiate education, began his career as most young men do by writing for the newspapers and for associations, but has steered clear of rocks and has never been wrecked. He has pursued his journey cautiously, steadily, resolutely. He is a journalist to-day as he was a quarter of a century ago,—the only difference being that he has now got a journal of his own, and he used to write for various journals then. He is the same public-spirited citizen now that he was twenty-five years ago.

He is the same votary of progress now as he was then. The fervour of his youth continues unabated. He has not abandoned the projects of his youth but has lived to see them in a great measure realized ; and age has taught him to look with other feelings than contempt on the enterprising schemes of educated young men. The record of such a man's work in life is full of invaluable lessons to the educated youth of Bengal.

Calcutta.

The 20th January, 1882. }

R. C. PALIT.

My acknowledgments are due to W. H. Kirkpatrick Esq., Registrar of the Bengal Legislative Council, for his kind help in furnishing me with a great portion of the materials for the present volume.

R. C. PALIT.



From the Pillars of the Empire.

BY MR. JOHN MACDONALD.

THE HONOURABLE KRISTO DAS PAL.

It would be difficult to name any Hindoo who has attained, among natives of his own race, a position exactly analogous to that which Syud Ahmed Khan holds among the Upper Indian Mahomedans. For one reason, the constitution of Hindoo society is less favourable than that of the Mussulman for the exercise of a social and political leadership on something like the European model. The religious and social distinctions, which we sum up in the generic word *caste*, interfere with the *solidarité* of the Hindoo population to an extent of which the Mahomedans, in spite of their many sectarian and class differences—imitated, in a great measure from their former subjects—have themselves had no experience. Almost the only eminent Hindoo of whom the English public have lately heard is the religious reformer who many years ago threw off the trammels of caste altogether, and, as the chief of the Brahmins, came over to England to preach Theism. Baboo Keshub Chunder Sen, however, is a far less important personage among the natives of Calcutta and Bengal than his countryman, who is the subject of the present notice. The Honourable Kristo Das Pal may be accepted as the leader of a large and influential section of Hindoos, whose political attitude towards the English Government corresponds in many respects to that of the Mahomedan Liberals, who are represented by Syud Ahmed Khan. There is this difference, however, that Syud Ahmed's followers are more uncompromisingly English in their tendencies than any other class of natives, Hindoo or Mahomedan, who are conscious of political opinions of any kind.

* Pillars of the Empire. Sketches of living Indian and Colonial Statesmen, Celebrities and Officials. Edited, with an introduction, by T. H. S. Escott. London.

Like his Mahomedan countryman, the Honourable Kristo Das Pal owes his high rank among the foremost Bengalees of his generation solely to his high character and ability. He first gained distinction as a journalist, and under his management the *Hindoo Patriot*—of which, we believe, he is also the proprietor—has long been recognised as one of the ablest newspapers in India. But it will be inferred from what we already said, that the *Patriot*, which, like a small minority of its native contemporaries, is written in English, is much less advanced in its views than the Aligurh paper. It is what even old-fashioned Hindoos, if they were to borrow Western phraseology, might call a safe journal; and this partly accounts for its wide circulation among the educated classes. It has been Mr. Kristo Das Pal's ambition to act as the interpreter and representative of the more influential section of his fellow-countrymen, rather than play the part of a reformer. Hence, in a great measure, his resolute opposition to some of the most cherished schemes of the greatest reformer, whether native or English, whom Bengal has yet seen, *viz.*, Sir George Campbell; or perhaps it would be more correct to say that his hostility was directed not so much against the end as the means. A discussion of the subject, however, would open out a series of questions with which English readers are unfamiliar, and in which they cannot be expected to feel any interest; but it may be observed that Mr. Kristo Das Pal, and those to whose views he gave expression, objected to Sir George Campbell's projects for taxation in support of local improvements, local self-government, as it is called, and a universal system of primary instruction, on the ground, partly that the levy of the proposed cesses implied a violation of the arrangement by which, eighty years ago, the amount of the State's claim upon the soil was supposed to have been settled in perpetuity. There was a reminiscence of the old antagonism between the Lieutenant-Governor and the native editor when the former, during the debate on the Press Act, having declared that the Anglo-native papers were more seditious than all the vernacu-

lar journals put together, singled out the *Hindoo Patriot* as the most dangerous of them all. As a matter of fact, there is no more loyal journal in India than the *Patriot*. Mr. Kristo Das Pal, in short, is the literary champion of the Zemindars, or landlords, and of the British Indian Association, which is perhaps the most powerful and intelligent of the many societies which the natives of India have formed after the English pattern. Whatever we may think of his views on the matter of ways and means, he must be acknowledged to be one of the most steadfast friends of progress, as well as one of the best writers and speakers that Bengal has produced. For a long time, too, Mr. Kristo Das Pal took an active interest in the control of local affairs; and he rendered valuable service during the prolonged discussion in the Legislative Council, and the public demonstrations in Calcutta, which, during the earlier portion of Sir Richard Temple's rule, ended in the establishment of a municipal constitution, with an elective machinery similar to that which is in use in English towns.

It was an honour to which his services, his diverse qualifications, and his experience fully entitled him, when, at last, he was nominated to a seat in the Council of the Lieutenant-Governor of Bengal. He speedily established his reputation as one of the most skilful debaters in that body. His speeches show no trace of that looseness of thought and style which so often characterizes even the best efforts of natives who express themselves in English. On the contrary, they are just as compact and logical as any which we might expect from a practised orator addressing Mr. Speaker. An appointment such as that of the Honourable Kristo Das Pal was calculated to please the Bengalees, or, at least, the Calcutta population in particular; for it is in Bengal that the cry for elevation to the official level is sent forth more shrilly than in any other Indian province. The new member himself was, and still is—and very properly too, it may be added—one of the most persistent advocates of a more liberal system for the admission of natives to offices of dignity and responsibility. It is the substance rather

than the shadow and mere symbols of power that natives of his stamp are anxious to conquer. Mr. Kristo Das Pal has also had his fair share of titles. That of Rai Bahadoor was conferred upon him in recognition of his public services. As a member of the local Legislative Council, he ranks, of course, as an Honourable and he is the only ornament of the Indian Fourth Estate, who rejoices in a Companionship of the newly-created "Order of the Indian Empire."

CONTENTS.

SPEECHES IN THE BENGAL LEGISLATIVE COUNCIL.

Registration of Jute Ware-houses Bill. Realization of Arrears of Rent. Famine Loans Recovery Bill. Surveys and Boundary Marks. Irrigation and Canal Navigation. Calcutta Municipality. Settlement of Disputes Regarding Rents. Mofussil Municipalities. Court of Wards. Provincial Public Works Cess. Rate upon Irrigated Lands. License Tax on Trades, Dealings and Industries. Settlement of the Rent of Lands in Private Estates. Recovery of Rent. Calcutta Tramways Bill. Contagious Diseases (Animal) Bill. Compulsory Vaccination. Calcutta Municipal Act Amendment Bill.	1—276.
---	--------

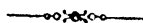
SPEECHES AT PUBLIC MEETINGS.

Famine Meeting of 1867. Income-Tax Meeting of 1870. Prince of Wales Welcome Meeting. Military Expenditure.	277—297.
---	----------

Speeches at the Annual Dinners of the Trades' Association. 1873—75, 1878—1880.	298—318.
---	----------

Minutes.

Calcutta Municipal Bill. Text Books for Indian Schools. Military Expenditure. Doorga Pooja Holidays. Settlement of Disputes Regarding Rent. Rent Bill of 1877. Calcutta Municipal Act Amendment Bill.	319—398.
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SPEECHES

IN THE

BENGAL LEGISLATIVE COUNCIL.

REGISTRATION OF JUTE WAREHOUSES BILL.

The Hon'ble Mr. Hogg said at a meeting of the Bengal Council held on the 23rd January 1875 that the Bill which he proposed to move be read in Council had for its object the amendment of the Jute Warehouse and Firebrigade Act, 1872, especially with a view to modify the restrictive clauses of the Act, which the owners of Jute Warehouses had represented to the Council as unnecessary and unduly prejudicial to the jute trade.

The HON'BLE BABOO KRISTODAS PAL said this was one of those little amending Bills the principles of which did not need much discussion. There were, however, one or two points involved in it with regard to which he wished to offer a few remarks. The hon'ble mover of the Bill had stated that it was inconvenient to embody in the law the conditions which were imposed in regard to the grant of licenses for jute warehouses, and that the power to do so should be delegated to the Lieutenant-Governor. For his own part, he thought the Council would not be acting fairly by throwing the task of legislation upon the head of the executive Government and thus shifting its own responsibility. He believed that the Lieutenant-Governor would not refuse to undertake any duty which this Council in its wisdom might assign to him. But he was not sure whether any one in His Honour's position would possess that detailed acquaintance with the minute requirements of

the town which would enable him to discharge the duty to his satisfaction. He would necessarily be dependent on the town and suburban corporations for information and advice ; and the Council, by adopting the principle recommended by the hon'ble mover of this Bill, would be practically making over the business of legislation to the several corporations affected by the Bill. This, he held, would not be fair to the head of the executive Government, nor to the Council, nor to the public at large. It was meet that we should share with His Honour the responsibility of framing the rules and regulations. Besides, he submitted that when a legislature was called upon to prescribe penalties for certain offences, it ought to know what were the acts which would constitute offences under the law. We had no opportunity of judging as to whether the penalties provided would be sufficient or not for the offences contemplated by the Bill, but to be defined hereafter by executive authority. Such a proposal appeared to him anomalous and unsound in principle. He admitted that the conditions prescribed in the present Act were stringent, and had worked in some cases oppressively. It was the function of the Council to remedy those defects, and not to shirk its own responsibility. The subject had attracted the attention of some of the proprietors of jute warehouses and the Chamber of Commerce, and he admitted that the representations of those gentlemen were grounded on facts and therefore entitled to consideration. If the Council referred to the opening speech of His Honour the President, when the Council was summoned this year, and to the address of the hon'ble mover, when he applied for leave to introduce the measure, they would find that the original proposal was to modify those conditions of the law which were complained of in the representations which had been received, and not to exclude altogether from the Act all the conditions which were imposed on the grant of licenses for jute warehouses, and leave them to the discretion of the executive Government. There might be differences of opinion in regard to some of the conditions, but he thought those differences might be

reconciled in this Council without much difficulty. It might be advisable—in fact desirable—to give power to the town corporation, or to the Lieutenant-Governor, to make subsidiary rules or bye-laws consistently with the substantive law, just as was now done under the Municipal Acts. In fact such a provision was contained in the present Act. Clause 7 of Section 7 of Act II of 1872 provided for the imposition, in addition to the conditions specified in the law, of such other special conditions as the Justices might, on consideration of the special circumstances of each jute warehouse, deem necessary to prevent risk to life and property in the neighbourhood. That discretion might well be left to the town and suburban corporations and the executive Government, and would meet the case of the town and the suburbs alike ; but the substantive law, he submitted, ought to be laid down in the Bill, with a discretion to the executive authorities to make bye-laws consistently with the substantive law.

The next point to which he wished to draw attention was as to the scale of fees prescribed for the granting of licenses. It would appear from the papers circulated to the members along with the Bill, that the Suburban Municipal Commissioners recommended the lowering of the rates for suburban licenses. Mr. Peacock, Magistrate and Chairman of the Suburban Municipality, proposed that the scale should go down so low as Rs. 150. And with regard to this part of the law, he might read to the Council an extract from the report of the Justices of the Peace for Calcutta for the year 1872, which was to the following effect :—

“The minimum fee for a license is Rs. 250, which was prohibitory in the case of several small houses. This point should be remembered whenever any amendment of the Municipal Acts is in contemplation.”

He might observe that the present rate of fees, as far as he was aware, had been laid down as a tentative measure only. Neither this Council nor the town corporation were then in a position to estimate exactly the proceeds of the new licenses. On

the other hand, a heavy charge had been imposed on the two municipalities for the maintenance of a firebrigade. It was therefore necessary that such a scale of fees should be prescribed as would cover the possible charges. The working of the Act for the last two years had shown that there was great room for reduction in the scale of fees. He believed the surplus in the hands of the Justices now amounted to about Rs. 60,000. It was a question for the Council to consider whether a particular branch of trade should be made to contribute to the general municipal funds of the town. He admitted that jute was a thriving branch of our national industry, and that the small tax which had been laid upon it in the shape of license fees did not materially check its progress or expansion ; but the Council ought to consider this tax upon jute from another point of view. There were, as the Council was aware, two classes of licenses : *firstly*, those who themselves occupied the warehouses ; and *secondly*, those who let their licensed godowns ; and the present scale of fees pressed severely upon the last-mentioned class ; and this hardship, so far as proprietors of small houses were concerned, was admitted by the Justices in the report already quoted. He could state from his own knowledge that the tendency of municipal taxation in the town was to depreciate the value of house property ; and it might be fairly questioned whether the legislature would be acting wisely by aggravating that tendency. It was therefore worthy of consideration whether the scale of fees for the licensing of jute warehouses should not be revised.

The Hon'ble mover of the Bill had pointed out the necessity of fixing the responsibility of carrying out the provisions of the law upon the occupier. He must say that he considered this provision a very great improvement on the existing law. The present law was not quite clear upon the subject, and practically the owner of the house, who was the owner of the license, had hitherto been held liable. As already observed, there were two classes of licenses. Now, it was very hard that the owner of the house, who took out a license, but had no connection with the business, should be made,

responsible for a breach of any of the conditions upon which a license was granted when he could not in any way control the action of the occupier. The amendment of the law on this point was much needed, and would remove a great complaint which had been made on all sides. But he did not agree with the hon'ble mover that a high fee should be levied on the registration of the occupier's name; he did not see why it should be made a source of revenue. We ought to encourage and facilitate the registration of the names of occupiers, and in that view he would recommend a nominal fee of one rupee and not twenty rupees, as proposed in the Bill.

Next came the question of what he might call the decentralization of the firebrigade fund. That point was raised in the letter from Mr. Peacock, the Chairman of the Suburban Municipal Commissioners. It appeared that the control which the Justices at present exercised over the firebrigade fund was a source of irritation to the Suburban Commissioners. They seemed to think that they were, as it were, sacrificed to the interest of the town. He must confess, as he thought, that they were greatly mistaken in that view. According to Mr. Peacock's own letter, it would be seen that the number of fires was very much greater in the suburbs than in the town. In fact, if the Council looked into the statistics of fires in the town, he believed it would admit that there was very little cause for the alarm which in 1872 led to the enactment of the present law. He found from an official paper, which he held in his hand, the following statement of fires in Calcutta from 1865 to 1871 :—

	Number of fires.	Pucca houses.	Tiled houses.	REMARKS.
1865	... 13	9	4	Three jute-godowns.
1866	... 7	3	4	Two ditto.
1867	... 12	6	6	None.
1868	... 6	5	1	One Jute screw house and one jute godown.
1869	... 9	5	4	Two jute-godowns.

	Number of fires.	Pucca houses.	Tiled houses.	REMARKS.
1870	... 8	3	5	None.
1871	... 10	6	4	(River two) four jute screw- houses.

Since the Jute Warehouse Act had come into operation, he found that there were four fires in the town and 29 in the suburbs. So after all it might not unreasonably be said that the firebrigade was maintained chiefly for the benefit of the suburbs, and that the town was unjustly taxed for the advantage of its neighbour.

If anybody would gain by the decentralization of the firebrigade fund, it would be the town of Calcutta ; and he did not see any reason why that principle should not be carried out. Formerly, as the hon'ble mover of the Bill could bear him out, the Justices worked the town firebrigade at an annual expense of Rs. 6,000. Now the firebrigade costs somewhere about Rs. 20,000 annually. [The HON'BLE MR. HOGG : Rs. 25,000.] He, however, agreed with the Suburban Municipal Commissioners that the town and the suburbs should be independent of each other in the management of the firebrigade. The Justices might have their own establishment, and the Suburban Commissioners their own ; and whatever surplus might accrue from their respective funds, they should be at liberty to apply to their own purposes. There would be then no just cause of complaint or heart-burning in the matter.

As regards the imposition of a minimum fine, as suggested by the Suburban Commissioners, he hoped the Council would not do anything of the kind. In Calcutta the working of the Jute Warehouse Act, as far as he was aware, and he believed the hon'ble mover would bear him out in this statement, had been fair and equitable, and he thought there did not exist any necessity whatever for fettering the discretion of the Magistrates in the way proposed ; and if the Act had worked successfully in the town, he did not see why it should not work with equal success in the suburbs. To take away discretion from the Magistrates in the adjudgment of fines according to the merits and circumstances of each

JUTE WAREHOUSES BILL.

case, would be to tell them to leave their consciences behind when sitting on the Bench. This interference with judicial discretion was opposed to the principles of the substantive criminal law of the country, for the Penal Code prescribed only maximum, and not minimum, penalties ; and he hoped that the Council would not sanction an infraction of the general law of the land.

The Hon'ble Mr. Hogg presented to the Council on the 20th February 1875 the Report of the Select Committee on the Bill to amend the Jute Warehouse and Firebrigade Act, 1872, and moved that the Report be taken into consideration in order to the settlement of the clauses of the Bill.

The HON'BLE BABOO KRISTODAS PAL said, the question before the Council was whether it should be left to the executive to prescribe the conditions under which licenses should be granted for jute warehouses. As he took the liberty on a former occasion to state his views on this point at some length, he would not tread over the same ground again ; but he begged to observe that he entirely agreed that whatever restrictions the Council might determine to impose upon the grant of licenses, they should be embodied in the law, and that, as the hon'ble member to his right (Baboo Doorga Churn Law) had observed, it would be unconstitutional to pass any law providing penalties for offences which were not themselves defined in the law. It was true that the rules embodied in the amendment moved by his hon'ble friend were for the most part re-enacted from the existing law ; but, as pointed out by another hon'ble member (Mr. Dampier), there must be some general rules laid down : and if the proposed rules did not meet the requirements of the case, they might be altered, amended, added to, enlarged, or otherwise modified ; and if the Bill were sent back to the Select Committee for revision, they would consider the whole matter.

From the discussion which had taken place that day, it seemed that hon'ble members agreed that there must be some rules laid down, if not by this Council, then by the Municipal Corporations. Now if those Corporations were in a position to lay down the rules he did not see why this Council should be considered incompetent to perform that task. It was true that same rules which might apply to Calcutta might not apply with equal force to the suburbs ; and if the Select Committee were of that opinion, they might provide two sets of rules,—one applicable to the town, and the other to the suburbs. Such distinction between the town and suburbs already existed, because the same scale of fees did not apply to the town and suburbs ; and in other respects also the law made distinctions between the town and suburbs. So much for the difficulty of legislating for the town and suburbs in the same Act.

He did not think the hon'ble mover of the Bill would maintain that any jute warehouse, though not open to any objection for the time being, should be entirely and for ever exempt from all control, supervision, or other legal restrictions : even the Cossipore institution, to which he had alluded, though a model jute warehouse, ought not to be treated exceptionally, for although its construction or management might at present be not open to objection, still circumstances might arise which might render it necessary to bring that warehouse under the law. He did not think that the Council would agree to a fast-and-loose system and allow any jute warehouse to be without the pale of the law ; and that being the case, he thought the Bill ought to provide certain general rules, which might or might not be applicable in all cases, but which, at the discretion of the executive, might be wholly or partially extended, according to the circumstances or merits of each case.

As to the objection to lowering the rate of fee, on the ground of the encouragement it would give to the establishment of small buildings, he might observe that it would be optional with the Jutices to

license such places or not. If they found that a building, by its size and situation, was more liable to fire than another, the Justices need not grant a license; but he did not see any reason why the fee should not be lowered when the present rate admittedly pressed hardly on the proprietors of small buildings, and when a high scale was not needed, there being a large excess of revenue over expenditure.

The Hon'ble Mr. Hogg presented to the Council on the 6th March 1875, the further report of the Select Committee on the Bill to amend the Jute Warehouse and Fire brigade Act, 1872, and moved that it be taken into consideration in order to the settlement of the clauses of the Bill.

Section 2 (referring to the minimum rate) having been read—

The Hon'ble BABOO KRISTODAS PAL moved that in clause (7) of section 2, below the figures "250," the figures "200" be inserted. This point, he said, was considered in Select Committee, when some of the members were of opinion that the present minimum rate of fee was quite low enough. But there was a difference of opinion, and he therefore thought fit to give notice of the amendment. He submitted that the present minimum was too high. It was not needed for purposes of revenue, because the working of the Fire-brigade Act for the last two years had left a surplus of nearly Rs. 60,000: on the other hand, it pressed very severely and unnecessarily on the proprietors of small warehouses. It was urged that the lowering of the minimum rate of fee might encourage the establishment of small jute warehouses, which would be a source of danger to property in their vicinity; but he believed that the rules for the grant of licenses contained in section 7 would prove sufficiently discouraging to the establishment of small warehouses, and the Justices would have sufficient discretion in licensing

places for the storage of jute. So, all things considered, he thought that the minimum rate of fee was too high, and would therefore propose to reduce it to Rs. 200.

Again in reply to the speakers who preceded—

The HON'BLE BABOO KRISTODAS PAL said the objection taken to his amendment was simply this, that the lowering of the fee would encourage the establishment of small jute warehouses—an objection which he had anticipated in his opening remarks. He begged to point to clause 3 of the section under consideration, which sufficiently provided against the establishment of warehouses of the class to which they were referring. That clause provided that space should be reserved on land appertaining to the jute warehouse for the loading and unloading of carts. That provision could not be complied with by the proprietors of small jute warehouses; it would be incumbent on the Justices to see that warehouses were provided with sufficient space for loading and unloading, and the amendment could not therefore be said to have a tendency to encourage the establishment of small warehouses. Strictly speaking, if the lowering of the fee were carried, it would only apply to the small warehouses which now existed; and as it was not the object to suppress these, he did not see on what principle of justice the benefit was denied to them, if it was admitted that these small warehouses were not sufficiently remunerative to enable the owners to pay a fee of Rs. 250. It was true that they did pay the fee at present, but it pressed severely upon them; and he thought that in justice to the proprietors of small warehouses the fee ought to be reduced.

Section 3 having been read—

The HON'BLE BABOO KRISTODAS PAL proposed to withdraw the next two amendments in his notice.

The HON'BLE BABOO KRISTODAS PAL then moved his amendment with the addition suggested by the HON'BLE MR. HOGG that the words "in accordance with the rates heretofore specified" be inserted after the words "amount of annual fee."

Section 6 having been read—

The HON'BLE BABOO KRISTODAS PAL said if the hon'ble member in charge of the Bill was willing to reduce the fee in the suburbs, he would move the next amendment standing in his name, namely that in the second paragraph of section 6, the words "and fifty," wherever they occurred, be omitted.

Section 9 having been read—

The HON'BLE BABOO KRISTODAS PAL moved that the following words be added to the section—

"Provided that there shall be no double conviction in respect of the same matter both under this and the last preceding section."

His object in moving this amendment was that no two persons should be punished for the same offence. He thought it would be quite sufficient for the purposes of this law if one person were fined for the offence committed, whether he were the occupier of a warehouse, the owner, or any persons who infringed the conditions under which the license was granted. This provision was rendered the more necessary by the section of the Bill which declared that where a warehouse was let out in portions, the owner should, for the purposes of the Act, be considered to be the occupier. In such cases the occupier might infringe the law, and the owner might have no control whatever over the occupier's actions. If, however, the Justices could fix the responsibility on the occupier of the particular portion of the premises in which the offence was committed, he did not think it would be consistent with justice to proceed against the owner. But if the occupier could not be got at, it would be reasonable to prosecute the owner and punish him. Take another case; a coolie smoked, and he ought to be punished for the offence he committed. He did not see why the owner of the warehouse should be punished for the commission of acts which were not strictly under his control. If there was any neglect on the part of the occupier or the owner, there was provision for the cancellation of his license. He believed the object

of the Bill would be sufficiently attained if one person, either the owner or the occupier, or any other person convicted of infringement of the law, were punished ; but to say that two persons should be punished for the same offence, was not a provision that could be considered sound and equitable.

The HON'BLE BABOO KRISTODÁS PAL said that, in reply to what had fallen from his hon'ble friend (Mr. Hogg), he would point to the concluding words of section 4 of the Bill, which were as follows :—

“If any jute warehouse is let out in portions, the person so letting it out and entitled to the rent shall, for the purposes of this Act, be deemed to be the occupier.”

He had referred to cases coming under that provision. Here the owner was deemed to be the occupier ; and as his hon'ble friend had observed that the owner had very little control over the occupier the responsibility should not be fixed upon him ; but where the occupier could not be got at, the owner ought certainly to be held liable. He would not relax the provisions of the Bill in the slightest degree, but would only ask the Council to consider whether it was equitable to provide that more than one person should be punished for the same offence.

REALIZATION OF ARREARS OF RENT.

The Hon'ble Mr. Dampier at a meeting of the Council held on the 30th January 1875, moved that the Bill for the realization of arrears of rent in Government estates be passed.

The HON'BLE BABOO KRISTODAS PAL said when this Bill was introduced in Council, he had no opportunity of discussing its principle, but he had the honour of serving on the Select Committee upon the Bill, and of considering the provisions contained in it. He did not propose to offer any objection to the passing of the Bill,

but he thought it his duty to draw the attention of the Council to the tendency of one of its provisions. The hon'ble mover of the Bill, in introducing it, had pointed to the necessity of supplying an omission in Act VII of 1868 passed by this Council. He said that the Collectors and officers of the Government had from 1797 exercised the power of summarily realizing rent from tenants in Government estates, and that when Act VII of 1868 was passed it was by an oversight that section 25 of Regulation VII of 1799, which contained the law on the subject, was repealed. The hon'ble gentleman was quite correct, and he agreed with him, that the same facility should be given to the Collector to realize rents from ryots of Government estates having non-transferable tenures that he possessed in respect of ryots who held tenures with transferable rights. He need not remind the Council that the old law proved innocuous in the then system of management of Government estates, inasmuch as Government then used to manage its estates through farmers, who dealt directly with the ryots, and who were subject to the ordinary rent-law in recovering their dues. The policy of the day was, however, different: the Government did not now farm out its estates, but held them under *khas* management through the intervention of its own officers. It was, therefore, deemed necessary to include, under the certificate procedure for the recovery of rent, non-transferable with transferable tenures. So far so good. But it was proposed in the Bill to extend the power to the Collector in charge of Wards' estates. When the Bill was considered in Select Committee, he was doubtful whether it would apply to such estates; but the hon'ble mover explained that it was so intended. Now, when the Wards' Act was revised and consolidated in 1870, this provision was not included in that Act. It was therefore fairly open to question whether this power should be given to the Collector in charge of Wards' estates. He readily admitted that the Collector in charge of Wards' estates was *ipso facto* in the same position as when in charge of Government estates. But the anomaly would appear when it was considered

that the Collector, as manager of a Ward's estate, when that estate formed part of a joint and undivided estate, would be subject to one law of procedure for the recovery of rent, and the other co-parceners would be subject to another, though the different fractions composed an integral whole. The same estate might be held by a number of persons, and because the Collector by an accident came to be the manager of a portion of the estate, he was armed with more summary powers than the other co-sharers of that estate. This, he submitted, was an anomaly. Then the Collector might farm out the estate: the farmers, who were responsible for the punctual realization of the revenue, were not vested with that privilege. They must go to the Civil Court in the regular way to realize the rents; but the Collector-manager was placed in a different position. This also was anomalous. It was, he observed, one thing to arm the Collector with summary powers when he was the manager of Crown property, and another thing when he was the manager of private property. He was aware that, under the law, an estate which was under the management of the Collector was exempt from the operation of the sale law for default of revenue; but this exemption was a necessary and natural sequence of that condition of things. The Collector being in charge of an estate, it could not be just to put up the estate in his charge to sale for default which might arise from his own laches or from circumstances which were within his control. But it was worthy of consideration whether, when it was deemed necessary to arm the Collector with such summary power for the realization of rent, notwithstanding the prestige and influence of his official position, a private landlord was not entitled to the same facility for the realization of his dues. This question, he was of opinion, was a logical sequence of the power vested in the Collector by this Bill. A private landlord was under greater disadvantages than the Collector-manager of an estate could ever be. He need hardly remark that the present law for the recovery of rent was attended with many inconveniences and hardships. A suit in the Civil Court was harassing, tedious, and expen-

give ; and it might well be asked whether the same facilities should not be given to the private landlord which it was deemed necessary to give to the Collector-manager of an estate for the realization of rent.

In making these remarks, he simply wished to draw the attention of the Council to the anomaly of the provision as regards the power given to the Collector-manager of estates, and to the tendency and effect which this law might have upon landlords generally. He did not wish to oppose the passing of the Bill, but he considered it his duty to impress upon the Council the probable effect it would have upon the landed classes.

FAMINE LOANS RECOVERY BILL.

The Hon'ble Mr. Dampier moved at a meeting of the Council held on the 13th February 1875, that the Report of the Select Committee on the Bill for the summary realization of loans of money and grain due to Government be taken into consideration in order to the settlement of the clauses of the Bill.

The HON'BLE BABOO KRISTODAS PAL moved the following amendments.

In clause 1, for lines twelve, thirteen, fourteen, and fifteen, read the following:—

“And whenever any arrear of such demand shall remain unpaid, the Collector or other officer to whom such demand is payable shall give to the Moonsif, within whose jurisdiction such demand is payable, notice in writing in the form in Schedule (B) annexed to the said Act, and such Moonsif shall make under his hand a certificate of the amount of such arrear so remaining unpaid in a form similar to that in Schedule (A) annexed to the said Act, and shall cause the same to be filed in his office, and every certificate so made shall be deemed to be a certificate made in pursuance of section nineteen of the said Act.”

Omit the last paragraph.

In clause 2, lines twelve and thirteen, for "Collector of the District in which," read "Moonsif within whose jurisdiction." In line seventeen, for "the Collector," read "Moonsif"

Omit the last paragraph.

After clause two, insert three fresh clauses, as follows :—

"For the purposes of this Act, the Moonsif, as mentioned in the two last preceding sections, shall have the same and the like powers and duties as are given to, and imposed on the Collector by sections twenty, twenty-one, twenty-two, twenty-four, twenty-five, twenty-six, twenty-seven, and twenty-eight of the said Bengal Act No. VII of 1868."

"Any Moonsif making a certificate in accordance with sections one and two of this Act, may, in his discretion, order in such certificate the amount payable to be paid by instalments."

"Every order made by a Moonsif in accordance with the provisions of this Act shall be final."

He believed there was no one in or out of this Council who could take the slightest exception to the objects of this Bill. The Government came forward most nobly to help the ryots at a time when they were threatened with starvation and death, and when assistance to them was not available from any other quarter. The debt which the ryots owed to Government he might say was a sacred one; and he was glad to find, from the reports which had been received from the district officers, that they did not apprehend the slightest difficulty in realizing it. In fact, it appeared from some of the papers that portions of the loans had already been recovered in some districts. The question before the Council was whether, if any suits should arise in connection with these loans, the procedure for the trial of these suits should be that which was laid down by Act VII of 1868, or any other procedure equally or still more summary. Now, with regard to the summary character of the procedure, he believed that there was no difference of opinion. The Select Committee were agreed on that point. They were unanimous that the procedure should be sharp and summary. The question simply was whether the Collector or the Moonsif should be the trier of the suits. It was his misfortune to differ from his colleagues in Committee upon the last point. The ma-

majority of the Committee were of opinion that the Collector would be the proper person to try the suits. He, however, felt that the regularly constituted tribunals of the country would be the proper courts for the trial of these suits. He believed the Council would admit that the Collector was in one sense an interested party in this matter. It was true that his own pockets would not suffer whether the cases ended one way or another; but his reputation was pledged as it were to the recovery of the loan, and it would therefore be individually his interest to see that every pice was recovered without loss. He did not for one moment believe that any intentional or conscious injustice would be committed; but there was in the Collector what the hon'ble member opposite (Mr. Dampier) called the other day, a departmental bias. There might be that departmental bias in the revenue officers which might lead them to overlook the interests of the other parties involved in the case. The Moonsif, on the other hand, would be free from that bias; he would be an independent officer, and his judgment would not be open to that charge which might not without reason be taken against that of the Collector. He believed the Council would agree with him that there might arise questions of fact and law in connection with these advances which would require trained judicial experience for their solution; and it could not be pretended that the revenue officers possessed superior qualifications in that respect compared to the judiciary. When the Moonsif was trusted in cases between private parties, he did not think it would be just to show any distrust in them when the Government became a party. The Government in other cases trusted the Moonsif in suits in which it was interested; why then should suits coming under this Bill be taken out of his jurisdiction? What would be the moral effect on the public mind of such distrust in the Moonsif on the part of the Government? Besides, it needs be borne in mind that the suits covered by this Bill were in the nature of money demands; and when such suits arose between private individuals, they were told to go to the Small Cause Court

or to the Moonsif's Court. If, then, the Government happened to be an interested party in a case of that kind, he did not see why a different agency should be resorted to for the trial of the suit. It was true that the Government employed a special agency for the trial of cases in the nature of arrears of demand ; but it could not be desirable to broaden this invidious distinction in all cases. In fact there ought to be as little distinction as possible between the Government and private parties in the trial of suits. The Government, as the employer of the judicial agency, ought to show its confidence by entrusting the trial of suits in which it might be interested to the ordinary tribunals of the country.

There were also other weighty reasons why the revenue officers should not be entrusted with the trial of these suits. From some of the papers before him, he found that already doubts were entertained by some officers as to whether it would be always easy to identify the parties who took advances in such cases in which they might deny having received the advances. For instance, he found from the report of the Collector of Bhagulpore that Mr. Kirkwood, the Relief Officer, said that "of course in many cases the parties must have only made their mark, and the only difficulty would be if they *denied* their identity and urged false personation on the part of some one else, it would be impossible for any one to identify each man to whom the order was given." Then the report of the Collector of Monghyr went further, and even proposed to throw the *onus* of proof from off the shoulders of the plaintiff to those of the defendant. Mr. Campbell, the Sub-divisional Officer in Monghyr, said on this point :—

"In the Bill now before the Council, it should be well to insert a section throwing the *onus* of proof on the person repudiating his identity and asserting personation or fraudulent entry of his name in a bond."

Now, with these opinions entertained by the revenue officers, it might be easily imagined whether ryot defendants would receive fair play ; whether they might not be called upon to prove a negative in defiance of the recognized principles of civilized law. Then

how were the advances made? They were made by golahdars, relief officers, sub-deputies, *et hoc genus omne*.

There might have been many abuses. When the villagers in their collective capacity took the advances, some of the ryots might not have received the full quantity entered against their names—some might not have received any at all. Then persons holding in common tenancy might not have shared alike. There might be many questions in connection with these advances which it was very desirable should be carefully sifted by a properly qualified judicial agency. It might be said that the trial by a judicial court would be dilatory and tedious, and might defeat the objects for which the Bill was introduced. He denied that. He did not propose that these suits should be tried under the Civil Procedure Code. He simply suggested that the certificate procedure laid down in Act VII of 1868 should be followed, with this modification that in lieu of the Collector the Moonsif should be inserted. If experienced Moonsifs were appointed to try the cases, they would be able without much difficulty to sift their real nature and merits and decide satisfactorily. He did not think the interests of the Government would suffer in the least by transferring the jurisdiction in these cases from the revenue officer to the Moonsif. On the other hand, he might observe that if his proposal were adopted, the procedure would be still more summary than that contained in Act VII of 1868. That Act, as the Council were aware, allowed an appeal from the decision of the Collector to the Commissioner, whereas he proposed that the judgment of the Moonsif should be final. Thus the primary object of the Bill would be attained if the proposed procedure were adopted.

The next question was as to the time for the repayment of the loans. None was better aware than His Honour the President of the condition of the ryots at the time when they took the advances: they had gathered no crops from the field; they had sold all they had at home to keep their body and soul together; they were on the brink of starvation, and then came in the Government, like the

good Samaritan, to give them money and food when they hungered and water when they were thirsty. That was a most noble act of humanity. But should not the same generous consideration which was shown to the ryots in their distress be shown to them in the recovery of these loans ?

It should be remembered that these ryots were entitled to peculiar consideration on the part of Government. If they had not, from a sense of self-respect, taken loans from the Government, but had on the contrary, gone to the relief centres as poor beggars, the Government would have been obliged to feed them, and would have had to debit the whole amount so expended against the revenue. But because these ryots had a sense of self-respect, and wanted to earn their livelihood by honest labour, and to borrow money when they had not any, and to repay it when they had sufficient means,—because, he said, these ryots followed an honest and honourable course, the Government was in a position to recover what it had laid out for their maintenance, and they were not unwilling to pay their just debt. As he had already observed, the Collectors as a body thought that there need be no apprehension entertained about the recovery of these loans. Now, what was the position of the ryots to-day ? They had in the first place to meet these loans from the Government ; then the rents of the zemindar, which were in arrear ; then their own household expenses ; and numerous other demands. With respect to the Government demand, it should be remembered that they contracted the loan at one rate and had to repay it in at a different rate ; they received the loan in grain and had to repay it in money. They borrowed it at from 10 to 12 seers to the rupee, and they would have to sell rice from 25 to 35 seers to make up that rupee. Here they would suffer great loss. Then, again, the rents of the zemindars had been in arrear, which they must pay up.

The zemindars, as the Government had testified, had shown considerable liberality and humanity in assisting their distressed tenantry ; but they could not be expected to meet the Govern-

ment revenue this year, as they did last year, from their own pockets, or by borrowing money. The ryots, as a matter of course, must now pay their rents to the zemindar, and they had their own expenses to meet. Was it possible that one year's crop would be sufficient to meet all these numerous demands? It was true that last year's crop had been left to the ryots, because the Government did not in all cases enforce their demands this year. But the demands upon them were so many, that it was doubtful whether in all cases the ryots would be able to meet fully all these demands with the next year's crop. Indeed if such was possible, then the failure of one year's crop would not have brought millions of ryots very nearly to death's door. There might be ryots in good circumstances who might be able to pay at once; there might be others, again, who would want, two, three, or four years to meet the aggregate demands upon them, and in these cases the Government ought to show some consideration. It was therefore necessary that a discretion should be given to the Collector and the Court to receive the money in convenient instalments. It might be said that the amount of loan per family or head was very small; it might be small compared to the means of others: but the amount was not small compared to the means of those who had contracted them. Already in one district a complaint had come that though it was understood that the loan would have to be repaid in two years, notice had been served for its repayment at once. He did not know how far the case was true, or how far this was general, but such a complaint had come. It was therefore of the utmost importance that some provision should be made in the Bill authorizing the Collector to receive payment in convenient instalments, according to the circumstances of each party, and he had accordingly thought it proper to insert a provision to that effect in his amendments. He was aware that this object might be met by an order from the Executive Government. If the Hon'ble President would give such an assurance from his chair, it would not be necessary perhaps to make such a provision in the Bill. But he might point

out that if the procedure he recommended were not adopted, there would be an appeal to the Commissioner; and if there were no provision in the law authorizing the Collector to receive the money in instalments, it would not be open to the ryot, on appeal to the Commissioner, to urge that no time had been given to him for the repayment by instalments. As one of the grounds of appeal, it would be convenient to insert this provision in the Bill.

In making these remarks, he would only add that he was as anxious as any hon'ble member of the Council to afford every facility to the Government for the recovery of these loans: in fact it was but barely just to the general tax-payers of the country to provide such facilities. But he would repeat that the same generous spirit which had characterized the operations of Government in assisting the ryots in their late distress, should actuate it in providing for the realization of the famine loans.

Again in reply to the speakers who preceded him—

The Hon'ble BABOO KRISTODAS PAL said he would not detain the Council with any lengthened remarks by way of reply to the objections taken to the amendments which he had moved. He felt much obliged to hon'ble members for the very fair and frank manner in which they had met his remarks. At the same time, there was one misconception which underlay almost all the objections taken to the amendments, viz. that the Collector had made the advances, as it were, with his own hands, and would decide the case himself. That was not the fact, as hon'ble members were well aware.

[The Hon'ble MR. DAMPIER explained that he meant the Collector as representing his Department. He knew personally the Deputy Collector, or the gomashtha, or the circle officer who made the advance, and he was more likely to know than any one else whether the man who made the advance was a careless or a careful man. MR. DAMPIER alluded to the Collector as head of the Department, and contended that the Collector was more likely to get at the substantial truth than the Moonsif.]

The HON'BLE BABOO KRISTODAS PAL continued.—The explanation given by the hon'ble member amounted to this : the Collector relied on the information of his subordinates, and the subordinate being, in many cases, either a sub-deputy, a golahdar, or a circle relief officer, the Collector could not thus be expected to have that local knowledge on which the hon'ble mover had laid so much stress.

As for the relief officers, they were only temporary ; they came for a day and then went away—that was their position : and he did not see how their knowledge, whatever it was, could expand the knowledge of the Collector.

As regards the machinery of the Civil Court, his object was not to revive the procedure of Act VIII of 1859. As he had explained in the remarks with which he introduced his motion, his object was simply to substitute the Moonsif in the place of the Collector, the object being to vest the officer who had regular judicial training and experience with jurisdiction in these cases. The hon'ble and learned Advocate-General had observed that there could be no complex questions requiring judicial investigation, and that therefore it would not be necessary to have a trained judicial agency for the trial of these cases. Now, he believed, as hon'ble members generally believed, that in the majority of cases there would be no litigation whatever ; the ryots would pay without raising any objection. But there might be a few cases in which disputes might arise, and it was only in such cases he apprehended difficulty ; and he therefore proposed that a judicial officer should be vested with jurisdiction.

As regards the question of additional expense to the ryot, if the certificate procedure as laid down in Act VII of 1868 were followed, he did not see how additional expense would be thrown upon the ryot when only the Moonsif was substituted in place of the Collector as the trier of the suit.

With regard to the question of departmental bias, he must confess that the learned Advocate-General had argued the case

with considerable ingenuity. He told us that where a zemindar or a collection of villagers was responsible for the debt or loan, it would not be difficult to identify the person ; because the zemindars were men well known, and the particular villagers who stood security could easily be identified. But he had not said that in other cases where the ryots were individually responsible, it would not be easy to identify the parties ; and then the Collector might be carried away by his departmental bias in fixing responsibility, particularly if he thought, as one officer did, that the *onus* should be thrown upon the defendant, and that the latter should be called upon to prove a negative. The learned Advocate-General, by his remarks, virtually implied that in other cases there might be difficulty ; and in order to solve such difficulties he (BABOO K. D. P.) would prefer the trained experience of the Moonsif to the patriarchal knowledge of the Collector. But the main objection of his learned friend to the Moonsif seemed to be that his proceedings would be open to the general superintendence of the High Court. Now, he confessed that he was not prepared for an exhibition of such nervous dread of the High Court on the part of the learned gentleman, who had once graced the bench of that Court, and who was a representative of law in this Council. [THE ADVOCATE-GENERAL explained that he was speaking on the subject of expedition,—that where there was the superintending power of the High Court, matters would be delayed.] With regard to expedition, then, he had already explained that the procedure he recommended would be still more expeditious than the procedure under Act VII of 1868 ; because under that Act there was an appeal from the decision of the Collector to the Commissioner, whereas under the amendments he had proposed the judgment of the Moonsif would be final ; and even taking into consideration the supervising power of the High Court, the procedure he recommended would not be so dilatory, inasmuch as under Act VII of 1868 an appeal would lie to the Commissioner as a matter of right, whereas the interference of the High Court, under the power of general superintendence, would be optional.

As to the question of instalments, he need only point out that he did not mean that repayment by instalments should be made compulsory in all cases. He meant that the Collector should have a discretion to take the money in convenient instalments, 'according to the circumstances of each particular case. In some cases the Court might think it necessary to order repayment at once; in other cases it might exercise its discretionary power, and direct repayment by instalments. In making that proposal, he did not, as his hon'ble friend opposite had remarked, want to transfer the duty of humanity from the shoulders of the Lieutenant-Governor to the shoulders of the Moonsif; the Moonsif would, in that case, as much represent the Crown as the Collector.

SURVEYS AND BOUNDARY MARKS.

The Hon'ble Mr. Dampier moved at a meeting of the Council held on the 6th March 1875, that the Bill to provide for the survey of land and for the establishment and maintenance of boundary marks be read in the Council.

The HON'BLE BABOO KRISTODAS PAL said there were three or four important points involved in this Bill: *firstly*, the erection of boundary-pillars; *secondly*, the cost of erection and its apportionment; *thirdly*, the recovery of the cost; and *fourthly*, the question of appeals. As regards the erection of boundary-pillars, the hon'ble mover of the Bill, both when he asked for leave to introduce the Bill and on the present occasion, had clearly elucidated the necessity of doing so: in fact the survey was incomplete without proper demarcation of plots of ground by boundary-pillars, and it was to be regretted that this idea was not carried into effect whilst the survey was going on throughout the country. Practically, as had been pointed out by his hon'ble friend, the benefit to be derived from this Bill would be limited to one district only, or rather to one-half of it, namely Midnapore. The survey had been completed for the rest of the province, and it would entail enor-

mous cost if the work were to be done over again. The survey operations, as the Council were well aware, had been very expensive, not only to the Government, but to all classes of the people interested in the land, and the re-survey of the country could not therefore be carried out without calling into being the many evils which flowed from the first undertaking. But where the survey must be made, it was certainly desirable that demarcations should be effected by the erection of boundary pillars : in fact, the erection of such pillars formed part and parcel, as it were, of the survey system. At the same time he should observe that the benefit expected from this Bill could not be realized in all cases : for the minute and frequent sub-division of property in this country was a great obstacle to the permanency of land-marks. What might be considered permanent marks to-day, might in five years have to be changed in consequence of change of ownership in the same property by the natural operation of the Indian law of inheritance. This was particularly the case with small holdings which were not hampered by a cumbrous partition law. As regards large estates, partitions were not so frequent, simply because the *butwarrah* law was an almost insuperable obstacle in the way ; but this obstacle would to a great extent be removed by the proposed simplification of the *butwarrah* law. Nevertheless the object of the Bill was good ; demarcation of lands by boundary-pillars would be beneficial, and, he hoped, would prevent the frequency of boundary disputes, which at one time used to flood our Courts.

The next point was as to the cost of the erection of boundary-pillars. He confessed that opinions differed on that point. It was urged on one side that the survey was an imperial work ; and as the demarcation of lands by the erection of boundary-pillars formed a part and parcel of that work, the State ought to bear the cost of such demarcation and erection. On the other side it was argued that the landholders benefited by the demarcation, and therefore it was but right and proper that they should pay the cost. He submitted that much might be said on both sides of the question. It

was true that in all other provinces save Bengal the cost of demarcation was paid by the landholders ; but because the Government followed a different principle in other parts of the country, it did not necessarily imply that that principle was right. It should be borne in mind that the State as landlord was interested in knowing how the lands were distributed, and that therefore it ought to bear the cost of demarcation. In private estates in Bengal the zemindar had no power under the law to levy the cost of a survey from the ryots, and the reason was obvious—it was the interest of the zemindar to see how the lands were distributed and parcelled out. Private landholders were undoubtedly interested in the demarcation of the land by boundary-pillars, but the Government was also similarly interested. When estates were sold for default of payment of revenue, if there was not this demarcation of land by boundary-pillars, the new purchaser was put to great difficulty, and the Government was bound to point out to him the land which it had sold. If the Government failed to identify the estate, the sale would become void. He believed there had been some cases of small estates in which the Government could not identify the land, and that consequently the sale became null and void. Then, again, in the case of the dearah lands or alluvial lands, the Government was equally interested as the private landholder. In cases of the formation of *chur* land, the Government had a right to make a fresh assessment ; the zemindar also could claim an abatement of revenue where the land was washed away. It not unfrequently became a matter of dispute between the Government and the private landlord in identifying lands so washed away or so newly formed. It was consequently the interest of both in this wise to see proper boundary-marks put up and maintained for the purpose of future identification of the lands, and it was therefore equitable that the cost should be distributed between the private landlord and the Government.

Then the Bill provided that tenure-holders and other ryots having beneficial interests in the land ought to be made to con-

tribute to the cost of the erection of boundary-pillars. The provisions of this Part of the Bill had been taken from the Embankment Act. Now in the case of embankments, the benefit from such works to parties beneficially interested in the land could be distinctly defined, but he did not think that in cases coming under this Bill the benefit could in all cases be so distinctly traced and described. He admitted that where an entire estate had been let out by the zemindar in putnee, and by the putneedar in durputnee, and by the durputneedar in seputnee, and so on, the under-tenure-holders ought to be made to contribute, because the zemindar and the sub-tenure-holders (except the representative in the last degree) were in such cases mere annuitants; but it was a question for consideration whether all persons, having a beneficial interest in land, however their holdings might be situated, should be made to contribute, though they might not derive any direct benefit from the erection of the boundary-pillars, or though the benefit might be infinitesimal—perhaps more imaginary than real. As hon'ble members were aware, the survey had been made estate by estate, or mouzahwarry. Now there might be numerous tenures or holdings comprised within the estate or mouzah; it might be necessary to erect boundary-pillars at the junctions or borders or parting lines, or where the lands of one estate might be dovetailed into those of another; the only tenures or holdings which might be benefited by the erection of the boundary-pillars would be those which would lie near the boundary line. Would it, under such circumstances, be fair and just to tax all holdings of a permanent nature alike when the benefit derived was not alike? Those whose lands abutted upon the boundary line were directly interested in the establishment and maintenance of boundary-marks, whilst those whose lands were far away from the boundary towards the centre of the estate or any other part would have little or no interest in the erection of the boundary-marks. It was therefore worthy of consideration whether all persons having a beneficial interest in lands in the estate so demarcated should be made to contribute.

Moreover the rule of proportion laid down in the Bill did not seem to be clear. The hon'ble member said that it was a difficult subject, and he therefore proposed to throw the task upon the Collector. That officer being upon the spot, would be in a better position to adjust the proportion of interest of the persons benefited by the erection of boundary-pillars. He did not deny the truth of this; but he thought the Council ought to consider whether all persons should be taxed for a work the benefit of which they did not share alike, and whether it would be right in principle to leave it to executive officers to vary the rule of proportion according to their varying judgment.

With regard to the recovery of the cost, he observed that it was proposed to recover it as an arrear of revenue, and to authorize the sale of the estate for default in payment. He submitted that it was not proper or reasonable to proceed at once against the land in case of default of payment of such demands as these. If the moveable property of the debtor was not sufficient to satisfy the claim, it would then be right to proceed against the land. His Honour the President was aware how tenderly the land was dealt with in northern India, but here, he regretted to say, an opposite feeling prevailed. Almost every demand of Government was converted into a revenue demand, and the land was sold outright for default. He would therefore suggest, for the consideration of the Select Committee, whether it would not be better to treat this as a State demand and recover it under the certificate procedure, in the same manner as the Council had lately enacted for the recovery of famine advances. It might be easily imagined that the moveable property in cases coming under the Bill would generally be sufficient to satisfy the demand; but if it was not sufficient, then the land might be sold; but he held that it was a questionable policy to sell the land primarily to satisfy a demand which was not, strictly speaking, a revenue demand.

With regard to the question of appeal, he confessed he was not in favour of a multiplicity of appeals, and he entirely went

with the hon'ble mover of the Bill in reducing the number of appeals in respect of boundary disputes. At present two appeals were allowed, but under this Bill only one appeal would be allowed from the Collector to the Commissioner ; but he was sorry to observe that the Board of Revenue, to whom a second appeal lay, had been deprived of the general power of superintendence and control in proceedings connected with decisions upon boundary disputes. He was of opinion that this general power of control and supervision should not be taken away from the Board. He would not certainly allow parties to appeal to the Board as a matter of right, but leave it optional with the Board to exercise the power in those cases in which they might think fit. There might be cases of peculiar hardship in which the Board might think fit to interfere ; but under section 36 the Board would be precluded from exercising such a power. 5 , 746

As for the limitation of time, he observed that the Board of Revenue were divided in opinion. Mr. Money held that it would be amply sufficient to give parties dissatisfied with the decisions of revenue officers in boundary disputes six months' time within which to institute a suit in the civil court ; whereas Mr. Campbell, the other Member of the Board, thought that one year ought to be allowed. He was inclined to support the view taken by Mr. Campbell. He thought six months too short a time, and that it would be quite sufficient to reduce the present period of three years for the institution of a civil suit in a boundary case to one year, as suggested by Mr. Campbell.

The Hon'ble Mr. Dampier moved at a meeting of the Council held on the 7th August 1875, that the report of the Select Committee on the Bill to provide for the survey of land and for the establishment and maintenance of boundary marks, be taken into consideration in order to the settlement of the clauses of the Bill.

The HON'BLE BABOO KRISTODAS PAL said he did not object to

these sections, (sections proposed by MR. DAMPIER) but it struck him that if they were carried without modification, they would practically override section 11, in which provision had been made to furnish copies of maps and other papers to the zemindar or his representative, if his representative did not agree to sign the maps before they were sent to the Collector. Section 11 was discretionary, and if the proposed sections 10a and 10b were introduced as now framed, practically the discretion vested in the Collector by that section would not be exercised, and the concession made by the Select Committee, to which his hon'ble friend had referred, would therefore be practically nullified. He would ask the hon'ble member to consider whether some modification might not be made in these two sections so as to preserve the principle recognized in the provision in section 11. If that point were conceded, he had nothing to say against the amendment.

IRRIGATION AND CANAL NAVIGATION.

The Hon'ble Mr. Dampier moved at a meeting of the Council held on the 20th March 1875, that the Bill for Irrigation and Canal Navigation in the Provinces subject to the Lieutenant Governor of Bengal be read in the Council. The object of the Bill was to amend and consolidate the irrigation law and to extend it to all the provinces under the Lieutenant Governor's control. It also provided for the levy of compulsory irrigation rate.

The HON'BLE BABOO KRISTODAS PAL said the prosecution of irrigation works was a question of imperial policy, which did not fall within the scope of the deliberations of this Council. But past experience did not justify them to hope that financially these works were calculated to prove a great success. He perceived, from the last Bengal Administration Report that the total outlay upon irrigation works, up to the 31st March 1874, was

Rs. 3,15,18,966, and the total deficiency up to that date was Rs. 51,15,758; that was to say, Rs. 44,61,754 on account of interest, and Rs. 6,53,994 on account of current charges. These figures, he submitted, were the best evidence of the prospects of irrigation works in Bengal. He admitted that these works did good service in Midnapore and Behar in the drought of 1873-74, but even that service was very limited. He observed that this question was very ably and sensibly discussed in Sir George Campbell's Administration Report for 1872-73. Adverting to the outlay incurred, Sir George Campbell wrote:—

“It will be seen that the total expenditure will be enormous, while financially we have been most unfortunate. In Orissa the premature attempt to secure a large revenue ended disastrously, as explained in the last report, and caused much irritation and discord.”

In Midnapore the works were more successful, but still not to the extent desired. As to that, Sir George Campbell said:—

“But unhappily all these prospects were darkened by a circumstance which the projectors of the canal do not appear to have taken into account, though it seems obvious enough. The supply of water in the river which feeds the canals failed in October and November, just when water was most wanted. Short rivers rising on the surface of dry uplands must fail when the rains fail. Though there was by no means so excessive a drought in Midnapore as in the rest of Bengal and Behar, the supply to the canal fell to 300 feet per second at the time when water was most necessary to the crops. This quantity will not suffice for much more than about 30,000 acres; so much was irrigated, but many applicants were sent away without water, and even to some of those to whom we had engaged to give it, a very short supply was available. It seems, then, that we cannot safely engage to irrigate very much more than 30,000 acres without the fear that we shall fail to do what we have undertaken to do in every dry season when the rains cease early. It is seldom that the water is an absolute necessity at any other time; and the serious question arises whether we can undertake to extend our irrigation subject to this risk, and how we are to distribute the supply when we have not enough for all.”

In Behar, as he had already observed, the Soane Canal was of great benefit during the late drought, but even there the prospect was not all fair. Sir George Campbell remarked:—

"The Lieutenant-Governor believes that the Soane Canals have really very much better prospects than the others, and that within certain limits their greater or less success is assured. Whether in ordinary years, when there is a full rain-supply, the people will consent to pay such rates as to render the canal remunerative, remains to be seen ; but that the water will always be taken to a considerable extent, the Lieutenant-Governor has no doubt."

Sir George Campbell thus concluded :—

"Even if the Soane canals, kept within dry-season limits, may eventually pay, it is Sir George Campbell's belief that almost all other canals which can be devised in those provinces will practically be of the nature of an insurance against bad years, rather than a profitable speculation in ordinary years. Can we impose an insurance rate on those who are benefited ? Or is Government justified in spending great sums from the general revenues, not for profit, but to save life in years of failure ? These are very perplexing questions. As regards the saving of life, the fever which has so often accompanied the canals must be taken into account. It may well be doubted whether the Ganges Canal most saves life or destroys it. Sir George Campbell had hoped that deltaic canals were free from this scourge, but he has lately seen that there are complaints of fever caused by the Godavery canals also."

Now, it would be seen from these extracts that, according to the late Lieutenant-Governor of Bengal, the prospects of irrigation in these provinces were very doubtful, and he believed that all who knew the condition of the country and the requirements of the people would readily subscribe to that opinion. In Bengal in times past droughts used to occur at long intervals, but within the last ten years or so they had been more frequent. Since 1866, he could not say whether from atmospheric changes or what, drought had been more frequent in Bengal. Still it was a question of grave financial importance as to whether canals for irrigation should be multiplied and the general revenues burdened in the distant hope of meeting a drought which might occur once in eight or ten years.

He thought it proper to make these general remarks, as the Bill had been introduced with a preface that it was intended to extend these works to different parts of the country.

As regards the Bill itself, it was not clear whether the water-rate would be made compulsory or voluntary. He believed the hon'ble member intended that it should be voluntary; but as the Bill was framed, the point had not been made quite clear. For instance, there was no specific provision in the Bill that a contract should be made in all cases. On the contrary, section 27 implied that there might be no contract. It enjoined:—

“In the absence of a written contract, or so far as any such contract does not extend, every supply of canal water shall be deemed to be given at the rates and subject to the conditions prescribed by the rules to be made by the Lieutenant-Governor in respect thereof.”

This implied that there might or might not be a contract in all cases; and where there was no contract, it seemed to him there might be much misunderstanding and dispute. The Canal Department had not been popular, and he was therefore of opinion that as little discretion should be left to the canal officers as possible. Then it appeared from clause 6 of section 25 that, if it was not intended to make the water-rate directly compulsory, it was intended to make it indirectly compulsory. The section said:—

“If any of the rules and conditions prescribed by this section are not complied with, or if any water-course constructed or transferred under this Act is disused for three years continuously, the right of the applicant, or of his representative in interest, to occupy such land or water-course, shall cease absolutely.”

In other words, although the occupant might pay for the construction and maintenance of the water-courses, still if he did not take the water for three years successively he was to be deprived of the use of the water-course: that was to say, it would be confiscated. Now this provision had a direct tendency to make the rate compulsory, or rather to force water upon the occupant.

Then with regard to the liability for the waste of water, the hon'ble member had explained that where the party who wasted the water could not be identified, all the persons interested in the water-course should be held jointly responsible (sections 29 and 30 of the Bill). It was a well-recognized principle of criminal law

that if a person committed a breach of the law, he should be personally and individually held responsible ; but he could not understand on what principle of justice a body of persons was to be held responsible for an offence committed by an unknown person.

It would be intelligible if the persons whose lands benefited were held responsible ; but it was clearly unintelligible that all persons, whether their lands were benefited or not, should be held responsible because the canal officers were unable to find out the real offender.

The next point was as to drainage. He found that under section 25 private individuals, if they obtained a supply of water through a water-course, were to provide for the drainage of the places where drainage channels existed. But there was nothing in the Bill to show that the drainage of the villages would be kept intact where the canals were constructed at the cost of Government. He thought that this was a most important point, which ought not to have been lost sight of in a Bill of this kind.

The next point was as to compensation. The hon'ble member had explained that he had diverged from the North-Western Provinces' Act, which he had made his model, in granting compensation under the Bill. But on reference to section 8, he found that it provided as follows :—

“ The Collector shall proceed to inquire into any such claim which may be made under the provisions of the Land Acquisition Act, 1870, as far as they may be applicable, and to determine the amount of compensation, if any, which should be given to the claimant.”

It was not clear from this provision whether the whole machinery of the Land Acquisition Act would be availed of in cases coming under this section, or whether the determination of the Collector would be final. Then came the collection and realization of the water-rate. Under section 23 it would be at the discretion of the Government to farm out the collection of the water-rate to any person. But section 37 provided :—

"The Collector may require any zemindar or other person under engagement to pay the land revenue of any estate, to collect and pay any sums payable under this Act by a third party in respect of any land or water in such estate."

The hon'ble mover had not given any reason why he wished to throw this new obligation upon the zemindar. There were many reasons why this obligation should not be imposed upon him. In the first place it was liable to be abused in the hands of an unscrupulous zemindar ; in the second place, where the zemindar might not be exacting, and might fail to realize the rate from the ryots in due time, his whole estate would be held liable to sale as for an arrear of revenue : so the zemindar who would be charged with the liability for no benefit of his own was threatened, as it were, with the sale of his own estate for the debt of third parties.

This was scarcely fair or just. It was true that the collection of the roadcess had been imposed upon the zemindar, but the object was not only to facilitate the collection, but also to prevent the fiscal agency from coming into direct contact with the ryots for the collection of the cess, and thus to obviate the annoyance, irritation, and oppression which generally resulted from this process. But the canal officers formed a distinct department, and they would more or less come into contact with the ryots ; and he did not therefore see why the zemindars should be compelled to collect the rate for the Canal Department. The provisions of section 33, which declared that the collection of the rates might be farmed out, appeared to be quite sufficient. If a zemindar wished to take a farm of this kind, he would be quite welcome to do so, and it would be quite unobjectionable to employ his agency in such case. But he was not satisfied that any good reason existed for compelling the zemindar to collect the rate. In the interests of both the zemindars and the ryots, he thought that this section should be omitted.

Then, again, in regard to the mode of realization of the water-rate, it was provided in the first place that where the water-rate

and other charges were to be collected by the Government, the same should be recovered as arrears of revenue. In the second place, where the rates were to be realized by a farmer, they were to be realized as a demand under Act VII of 1868 ; but where they were to be realized by the zemindar, they were to be realized as rents payable to him. As he remarked at a previous sitting of the Council, he thought the less the legislature made the land liable for any and every demand imposed upon it, the better, so long as there were other valuable goods available for the realization of the dues of Government. If the immoveable property of the person liable to the water-rate was not sufficient to satisfy the demand, it would then be just and equitable to seize the land and sell it, but not otherwise. This objection was certainly obviated with respect to farmers under section 33, for in that case the water-rate was to be recovered as a demand within the meaning of Act VII of 1868. The farmer would thus have a facility in realizing the rate, but the zemindar must collect it as rent ; and the Council were well aware what this meant. If the ryots did not pay, the zemindar must sue them in the civil court, and undergo the expense, trouble, and harassment of a wearisome litigation, and in the meantime pay in the amount from his own pocket.

Then, with regard to jurisdiction under Part VII, it would appear that the jurisdiction of the Civil Court would be taken away with regard to the supply of water. The section provided that:—

“Except where herein otherwise provided, all claims against Government in respect of anything done under this Act may be tried by the Civil Courts ; but no such Court shall in any case pass an order as to the supply of canal water to any crop sown or growing at the time of such order.”

This was circumscribing the jurisdiction of the Civil Court to the detriment of those who availed themselves of the Act. Then another question arose. The Council were aware that canals sometimes overflowed in the rains and did great damage to the crops. There was nothing in the Bill to show that in such cases those

who might sustain damage from the overflow of water would have a claim against the Canal Department, and that the Civil Court would have jurisdiction in such cases. He did not know whether this section as it was worded would not bar the institution of such suits.

With regard to navigable canals, he had only to remark in conclusion that while the Bill provided penalties for the infringement of the rules, and made provision for the protection of canals, it nowhere provided that due facilities should be afforded for navigation. It imposed no obligation upon the Canal Department to provide facilities for navigation, though it authorized them to collect tolls and rents and to levy penalties.

The Hon'ble Mr. Dampier moved at a meeting of the Council held on the 4th December 1875, that the report of the Select Committee on the Bill to provide for irrigation in the provinces subject to the Lieutenant Governor of Bengal, be taken into consideration in order to the settlement of its clauses.

Section 6 provided for the issue of a notification when the water of any river or stream was to be applied for the purpose of any existing or projected canal.

The HON'BLE BABOO KRISTODAS PAL moved the insertion of the words "not being private property" after the word "water" in line 6. He said he readily admitted that Government had been actuated by the most benevolent object in proposing this measure, and that the power with which this Bill invested the Government would doubtless be applied to the greatest advantage of the people. But this section, as it was worded, gave a wide latitude to Government, without at the same time giving due compensation to those who might fall within the scope of its action in case their private rights were trespassed upon. This section authorized the Government to divert the course of any water channel, private or public

and reading the section with Section 11, it appeared that the exceptions which had been made in Section 11 for compensation would leave out a large class of private rights. Now public waterways were vested in the State as trustee for the general public ; but there might be private waterways or channels constructed by private capitalists, or belonging to private individuals as part of private estates, over which the public necessarily had a right of way, but for the use of which private proprietors claimed tolls or other consideration. If such channels were closed or the water of the same were diverted or diminished, as Section 11 was worded, no compensation would be allowed. He might mention one or two cases. There was a channel, called the Kurratiya river, in Rungpore, which the Hon'ble Prosonno Coomar Tagore obtained an Act of the legislature to improve and to levy tolls on. The improvements which he effected did not of course answer, and the channel had not proved to be so useful as it was expected to be ; but in this case if the Government wanted to interfere and divert the course of water it would be perfectly competent to do so. Under the law the proprietor would be entitled to no compensation for the obstruction or diversion of navigation. In the same way a private Company might open a canal in the interior, and if Government wished to divert the course of the water, it would be equally competent to do so, and the Company would be entitled to no compensation. If the compensation clause of the section had been framed on an equitable basis, so as to meet such cases, he would not have the slightest objection to it. But reading these two sections together, he thought it would be very hard upon proprietors if the Government had the absolute right and power to divert the course of any channel or river without at the same time giving due compensation to those who might suffer by its operation. Government would doubtless look to the greatest good of the greatest number ; but at the same time, in pursuing that object, Government ought not to lose sight of the interests of those who might suffer by such proceedings. He would be prepared to with-

draw the amendment, of which he had given notice, if the compensation clause were made comprehensive enough so as to cover the cases he had mentioned; otherwise he thought the power which this section gave to Government ought not to remain.

Section 11 having been read--

The HON'BLE BABOO KRISTODAS PAL moved the omission in clause (b) of the words "or drinking-water." The object of the amendment was, that should, by the diversion of a water-course, or by the operation of any irrigation works, the collection or quality of drinking-water be interfered with, and the convenience or health of the people thereby suffer, it was but meet and proper that compensation should be allowed to them, so that they might construct good drinking-water tanks in place of the water-supply they had before. He believed the Council would admit the justice of such a provision, and he submitted that that object might be met by the omission of the words "drinking-water." He was aware that the North-Western Provinces Act had that provision, but it did not necessarily follow that because that Act contained such a provision it ought to find a place in the Bengal Act, the justice of it being open to question. He would also propose a further amendment at the end of clause (h) of the same section in these terms:--

"Or may be ascertained within five years next after the date of notification under Section 6."

Now Section 11 provided that there should be no compensation allowed for the stoppage of water. But he submitted that in many cases the quality of the crops greatly depended upon the alluvial deposits left after a flood, and any substantial damage sustained by a change in the course of water would come under clause (h). But that clause also provided that such damage was capable of being ascertained and estimated at the time of awarding such compensation. Now compensation might be awarded within six months after the issue of a notification. That was far too short a time to ascertain the damage he referred to, and even one or two years would not be quite sufficient; and he thought it would not be

unjust either to Government or to claimants if five years were allowed to run within which to estimate the damage which might be caused by the diminution of floods by the opening of new-irrigation channels. He thought the damage might be fairly ascertained within that period, and compensation should be allowed accordingly. He would therefore recommend the insertion at the end of Section 11 of the paragraph he had just read. Then, again, HIS HONOUR THE PRESIDENT had been pleased to remark that some provision should be made to cover such cases as those to which he referred when discussing Section 6, and he hoped the hon'ble member in charge of the Bill would make some provision with a view to reconcile clause (c) of Section 11 with clause (h).

In reply to some remarks of the several speakers who preceded him—

The HON'BLE BABOO KRISTODAS PAL said a case occurred lately in which it was proposed to divert the course of a water channel, and a notice was served upon a neighbouring zemindar to know whether he would have any objection to carry out the project; and at last the scheme proposed by the Canal Officer was disallowed by Government. Suppose such a case as that had been carried into effect, and lands not now subject to floods, and which would yield crops, should be almost devastated by floods, and great damage sustained. The question then arose, that it would not be easy to ascertain damages within six months.

The HON'BLE BABOO KRISTODAS PAL moved the introduction of the following words at the end of the section :—

"In addition to the amount of any compensation awarded under this section, the Collector shall, in consideration of the compulsory nature of the Acquisition Act, pay fifteen per centum on the value herein before mentioned."

He observed that he had followed the principle recognized in the Land Acquisition Act on the subject, and he would submit that what was held to be good in the case of the Land Acquisition Act, ought to be equally good in connection with this Bill. He would therefore recommend that fifteen per cent. should be

allowed by way of compensation in consideration of the compulsory nature of the acquisition. The Bill provided that where the market value could not be ascertained, twelve times the amount of the diminution of the annual net profits of the property should be reckoned. In addition to this he proposed that fifteen per cent. should be allowed as consideration for compulsory acquisition.

In reply to the remarks of Mr. Dampier.—

The HON'BLE BABOO KRISTODAS PAL said he was sorry he could not subscribe to the arguments of the hon'ble member in charge of the Bill. He had pointed out that the Northern India Canal Act did not contain a provision of this description, though the Land Acquisition Act did, and that therefore the Council was not bound to adopt that principle in this Bill. Now, the general principle recognized by Government was that something more than the market value should be allowed to any person from whom any property was taken away by a compulsory act of the Government for a public purpose. The hon'ble member had remarked that irrigation channels should benefit whole populations, but railways, he thought, were equally beneficial. If a railway was opened out masses of people would benefit. If houses and lands were taken up for the purpose of opening out railways and constructing roads under the general Act, fifteen per cent. was allowed over and above the market value. He did not see any reason why the same principle should not be adopted in reference to irrigation works. It was true that the Government of India did not follow that principle in the Northern India Act; but if the principle was just and righteous, he thought it ought to be followed, whether the Government of India had adopted it in one case or not.

Section 76 having been read—

The HON'BLE BABOO KRISTODAS PAL, in moving the omission of paragraph 4, clause (a), which ran as follows—"within periods fixed from time to time by the Canal Officer"—said, that if it was necessary to stop the water-supply at any time, Parts I and

It would sufficiently meet the requirements of the case; that was to say, when such works were under repairs or when any additions were being made to them, in which cases the supply would be stopped, and no compensation would be allowed to the owner of the village channel. But clauses 4 left it to the absolute discretion of the Canal Officer to stop the water-supply from time to time without any cause whatever. He thought this power would lead to great hardship and loss, and should be withheld. If there were any causes under which the stoppage of the supply should not be compensated, they should be specified in the law, and not left to the discretion of the Canal Officer.

On the motion of the HON'BLE BABOO KRISTODAS PAL, the word "shall" was substituted for the word "may" in the same section.* He submitted that if the supply had not been stopped for the reasons mentioned in the several clauses of the foregoing sections, then the claim to compensation should be held absolute, and the Collector should be required to give reasonable compensation for any loss which the occupier or owner might show.

The section as amended was then agreed to.

Section 79 ran as follows:—

"If water supplied through a village channel be used in an unauthorized manner, and if the person by whose act or neglect such use has occurred cannot be identified,

the persons on whose land such water has flowed, if such land has derived benefit therefrom,

or if no land has derived benefit therefrom, all the persons chargeable in respect of the water supplied through such village channel in respect of the crop then on the ground,

shall be liable to the charges made for such use, as determined by the Lieutenant-Governor under Section 98."

The HON'BLE BABOO KRISTODAS PAL moved the omission of the section. He objected to the section because it was based upon an unsound principle. It sought to throw responsibility upon

* "Whenever and so long as it may be necessary to stop the supply in order to prevent the wastage or misuse of water."

persons for acts done by others. He hoped that the hon'ble and learned Advocate-General would support him when he said that no man should be held responsible for any act committed by another. But this section provided that though another person might steal or waste water, persons living in the neighbourhood should be punished if the real offender could not be discovered. There was no distinction made between the innocent and the guilty. He was of opinion that the section should be thrown out.

CALCUTTA MUNICIPALITY.

The Hon'ble Mr. Hogg at a meeting of the Council held on the 3rd April 1875, in asking leave to introduce the Bill which had before been circulated to hon'ble members, pointed out that the law which governed the Municipality of Calcutta was contained in a number of Acts, passed from the date of the passing of Act VI of 1863, down to the present time. Owing to the multiplicity of the Acts, and also from some of the provisions of the Acts not being altogether at one with each other, there was considerable difficulty, he stated, in ascertaining what the law was in many points. He therefore, on these grounds, suggested the expediency of consolidating the Municipal law of Calcutta; and at the same time he stated that although he had no intention of proposing any radical change in the law or constitution of the Municipality, yet he thought it would be advisable to avail themselves of this opportunity to amend the law in some respects in which it had been found not to work efficiently. The Bill now in the hands of the Council purported to consolidate ten Acts, commencing with Act VI of 1863 and ending with Act I of 1872, thus containing the whole Municipal law, with the exception of the Acts relating to markets.

✓ The HON'BLE BABOO KRISTODAS PAL said a *quondam* Governor General of India, alike distinguished for ability and eloquence, once

remarked that the Legislative Council of India was a standing committee of changes. If proof was wanted to illustrate the truth of that saying, the history of municipal legislation of Calcutta afforded a notable proof. The first law which gave the present constitution to the Calcutta Municipality was passed in 1863, and within the last twelve years about twelve Acts, including those for markets, had been enacted, giving on an average one Municipal Act for the town per annum. Thus there were changes almost annually going on in the municipal law of Calcutta. The time had arrived for the consolidation of those laws, and the task could not have been undertaken by a worthier individual than his hon'ble friend in charge of the Bill. He had had experience of the working of the Municipality for the last nine years, and his energy and ability had always extorted the admiration of the community and the Government, though there had been occasional differences of opinion between the Justices and himself regarding his method of action. The present Bill aimed at the consolidation of ten Acts, excluding the market Acts. The hon'ble mover had said that the question of the incorporation of the Market Acts might be considered in the Select Committee, who might, if they should think proper, include them in the Bill. For his own part, he thought that the law relating to the Municipality of Calcutta should be one, and that the Market Acts should not be left separate: but the Select Committee would doubtless consider that important point.

The hon'ble mover of the Bill had explained that he had not touched the constitution of the corporation; but the hon'ble member to his right (Mr. Schalach) had suggested that the present opportunity should be taken to improve the constitution, if practicable. The hon'ble gentleman was the first to inaugurate the present municipal system of Calcutta, and he had considerable experience in the working of it. He was now the head of another Corporation, which, though limited in its scope, had still very important and somewhat analogous functions to perform; and occupying the vantage ground he did as the head of that Corporation, he saw

the defects that disfigured the neighbouring institution. He had therefore propounded a scheme for the reform of the municipal constitution of Calcutta. Whatever fell from the hon'ble gentleman on a subject like this was entitled to the attentive consideration of this Council, and he readily admitted that the suggestions his hon'ble friend had made were very important and worthy of serious consideration. This was not the place to review the history of the Municipal Corporation created by Sir Cecil Beadon's Act of 1863, but one thing he might remark, that whatever the errors and shortcomings of that body, it had done its duty courageously, honestly, and on the whole satisfactorily. With two such hon'ble gentlemen, who were now members of this Council, as Chairmen of the Corporation, and with a body of citizens as members of that fraternity, who were noted for intelligence, practical knowledge, and public spirit, it could not but be otherwise. The object of both was the good of the town, and barring occasional differences of opinion, the Justices and their Chairman had co-operated heartily in furthering the common object. He would not enumerate the many improvements which the Justices had introduced: any one who had seen Calcutta twelve years ago, and who saw it to-day could at once point to the improvements in question. But at the same time he must admit that those improvements had been effected at an enormous cost. The taxation of Calcutta had increased from nine and a half to twenty per cent., and in addition to the revenue derived from such taxation the Justices had incurred a very large debt for the construction of works of permanent utility. The establishment had also enormously increased, and indeed there was a general impression that a considerable part of the municipal income was unnecessarily eaten up by the establishment. He believed the hon'ble member in charge of the Bill himself admitted that, if he had the power under the Act, he could considerably reduce the establishment, and combine economy with efficiency. He hoped that the present Bill would give the Chairman the power to carry out his views in that respect.

Now with regard to the constitution of the Municipality, the hon'ble member who last spoke said that the present machinery was unwieldy. There could, he thought, be no difference of opinion that it was an unwieldy body ; that every member of the Corporation did not devote that attention to municipal affairs which it was his duty to do ; and that on many occasions things were carried by the votes of the majority, perhaps not intelligently given. This was more or less the case with large representative bodies everywhere : it was the few who worked, and the many who enjoyed the dignity of office. It was the few working members of Parliament who had made it what it was, and not the six hundred and odd who composed the House of Commons. And the working Justices, the hon'ble mover could testify, spared no labour and trouble to discharge their duties conscientiously and efficiently. If the present constitution was to be changed, he hoped it would not be a half measure. The scheme which the hon'ble member who last spoke had propounded he was sorry to say, had the character of a half measure. It was borrowed from the Bombay Municipal Act, and hon'ble members were doubtless aware of the violent opposition that Act met with from the citizens of Bombay whilst it was passing through the local Council. Europeans and natives banded themselves together to oppose the passing of the Bill, and they came up to the Viceroy praying that he would put his veto upon it. His Excellency allowed the Bill to pass, upon the ground that it was a merely tentative measure, and he hoped that a Bill passed under such doubtful auspices would not be made a model for the municipal constitution of Calcutta. If a move was to be made for the amendment of the municipal constitution of Calcutta, he hoped that the right of election on a broad basis would be conceded. He was not prepared to say that the Council was in a position, or that the time had arrived, to concede a thorough elective system to the town of Calcutta ; but he must observe that no mere tinkering of the municipal constitution would satisfy the public. If it was thought advisable to give the citizens of Calcutta the right of self-government, they ought to

have it fully and unreservedly. But then the question would arise—suppose the elective system be conceded, should the Chairman be elected by the representatives of the town, or should his appointment rest with the Government? Now there could be no thorough elective system unless the Chairman's appointment were also made elective; and with the question of the appointment of the Chairman arose many important questions which it was not desirable to discuss there. He was of opinion that for a long time to come it would not be desirable to separate the appointment of the Chairman of the Justices from the Civil Service. He had seen the working of the Calcutta Municipality for the last twelve years, and he must confess that, though the proceedings of the Chairman might have been sometimes characterized by an arbitrary spirit, he had proved an honest administrator of public funds and public affairs. There could not be a more trustworthy agent than a member of the Civil Service. If, then, the Council were not prepared to leave the election of the Chairman in the hands of the Town Council, would it be worth its while to constitute a Corporation, composed partly of members nominated by the existing Corporation, partly of delegates from the public Associations of Calcutta, and partly of members appointed by the Government? Now with regard to the Associations of Calcutta, although he had the honour to belong to one of them, he must admit that they were not permanent bodies, and that it was therefore open to question as to whether the permanent interests of the town should be committed to bodies who lived on the breath of their subscribers. In the next place the hon'ble member proposed that the Town Council should be formed on the model of the Port Commission, and that its proceedings should be conducted in the manner of those of the Port Commissioners. Now, with every deference to the Port Commissioners, he hoped the Council would not pass any measure which would reduce the Town Corporation to the level of the Port Commission.* The Port Commissioners, as the representatives of the mercantile interest were doubtless doing their work well and satisfactorily; but their

close borough system, it appeared to him, was not suited to the public interests of Calcutta. The proceedings of the Port Commission were not open to the public; the representatives of the press were not admitted to its sittings. An attempt, he believed, was once made for the admission of reporters to the sittings of the Commission, but the application was refused. No one outside the pale of the Port Commission knew what they did, beyond what they might vouchsafe to state in their annual report. There was, therefore, no check whatever over the proceedings of the Port Commission. On the other hand, the Justices acted in the full blaze of publicity. They did not conceal any thing from the public view; on the contrary they courted criticism, and the public were therefore always in a position to know the history of every question discussed by the Justices, and the measures adopted with regard to it. The policy of publicity, introduced by the Municipal Act, had infused a new public spirit into the citizens of Calcutta, and he could assure the Council that the rate-payers of the town now took a far greater interest in its affairs than they had ever before done. They now read every paper published by the Municipality, they discussed every question, and were ready to give their opinion upon important matters which affected their interests; and he hoped the Council would not take a retrograde step and put an end to that which was one of the redeeming features in the present system of municipal administration of Calcutta.

As for having a small compact body to manage the executive business of the town, he might say that that was now practically done. There were already standing committees to aid and advise the Chairman in the terms of the law, and although there were two general committees, they practically met together and thus constituted one committee. These committees met on an average once a week, and thus performed the functions of the Town Council which the hon'ble member who last spoke proposed to establish. Of course these committees had not the prestige or the authority of the proposed Town Council, but they did all the executive work

placed before them by the Chairman ; and as the Chairman had made it a rule not to come before the Corporation with any proposal without, in the first instance, laying it before the committee, there was little friction between him and the Justices. He came before the Justices armed with the recommendations of the committees, and he generally received their support.

In making these remarks, he wished it to be understood that he did not mean to say that the constitution of the Municipality was not susceptible of improvement. But he hoped that whatever changes it might be thought proper to make, would be made in the right direction,—that was to say, in the direction of greater freedom and greater power to the rate-payers and their representatives than was given under the Bombay Municipal Act. That Act was now under trial, and he did not think it would be wise to follow it here.

With regard to the Bill itself, he begged to offer a few remarks. First with regard to the constitution of the Corporation as defined in Chapter II. Section 4 of that Chapter said—

“All Justices of the Peace for the Town of Calcutta, and such other Justices for Bengal, Behar, and Orissa, resident in Calcutta, as the local Government may from time to time, by order published in the *Calcutta Gazette*, appoint in that behalf, shall, by the name of the Justices of the Peace for the Town of Calcutta, be a body corporate.”

It was evidently implied by this section that Justices for Bengal, Behar, and Orissa might be appointed members of the Corporation. He would not trouble the Council with the history of Act VI of 1871, withdrawing the Bengal, Behar, and Orissa Justices from the Town Corporation, which was passed during the incumbency of Sir William Grey. He was ready to admit that the Bengal, Behar, and Orissa Justices would prove a very useful element in the Corporation, if they could be made to take due interest in the business of the town. They were a highly educated body of gentlemen, and from their position they were greatly experienced in public affairs ; but unfortunately, as the history of the Corporation showed, they took very little interest in the legiti-

mate business of the Corporation, except where personal questions arose. Their conduct in this way became a public scandal; representations were made to the Government of the day for the amendment of the constitution of the Municipality in that respect; and Sir William Grey, concurring in the views of the memorialists, sanctioned the passing of that law. He did not think that it was intended that the old law should be revived; but the words would seem to imply that the Bengal, Behar and Orissa Justices might be appointed to the Corporation as of old. He admitted that there would be no reasonable objection if the Lieutenant-Governor were to appoint such gentlemen Justices of the Peace for Calcutta independently of their position as Bengal, Behar, and Orissa Justices. There were already several Civilian gentlemen members of the Corporation, but they had been nominated independently of their position as Bengal Justices. But he thought the law should not re-enact that the Bengal Justices should, by virtue of their position, be appointed Justices of the Peace for the Town. It might be left to the discretion of the Government to appoint them.

Then, with regard to the Municipal fund. Section 6 declared that the municipal fund might be applied for the purposes of this Act and "for such other purposes as the Justices, with the sanction of the local Government, may direct." This, he submitted was a direct and, he was obliged to say, a dangerous innovation. If the committee of the Town Band or the promoters of the Zoological Gardens, or any other body or individuals who had some fancy project to serve, went to this milk cow for funds, the Justices in their wisdom might give the grant. But the interests of the rate-payers would be sacrificed, and there would be nothing in the law to prevent such a gross misapplication of the municipal fund. This power, he thought, should not be given, and the objects for which the fund should be expended should be distinctly defined in the law.

He had remarked at the outset that the existing law did not give sufficient power to the Justices to enforce economy in their

establishments. Under the present law it was obligatory on the Justices to appoint the following officers, viz., vice-chairman, secretary, engineer, surveyor, health officer, collector of taxes, and assessor. Now the appointment of health officer had often been a subject of discussion in the Municipal Corporation, and on every occasion when the question was raised it produced some irritation. It was felt that the law had unreasonably tied the hands of the Justices, and that they could not appoint an officer on condition that he should give a part only of his time to the work of the office, which would be quite sufficient for the purpose, and devote the rest of his time to whatever occupation he might think best. He thought that power should be given to the Justices to make some such arrangement, if they deemed it necessary, with the health officer with regard to the employment of his time. None knew better than the hon'ble mover of the Bill that the work of the health officer was not such as to occupy the whole of his time, and the Justices could save a large sum of money annually if they could effect such an arrangement as the one they did while Dr. Macrae held the office of health officer. With the same object he would wish that power should be given to the Justices to double up some of the appointments at any time they might think fit. The Justices might some time obtain the services of an officer who, as health officer, or engineer, might also conduct the duties of vice-chairman, in the same way as the Vice-Chairman of the Port Commissioners performed the duties of engineer-in-chief to that body. Although such an arrangement was not practicable now, it might be practicable at some future time, and he thought the law should give power to the Justices to double up any appointments in their discretion.

He now came to the question of taxation. He observed that the Bill proposed an increase of the lighting-rate from two to two and a half per cent, and of the water-rate from five to six per cent. The hon'ble mover of the Bill had explained his reasons why he asked for an increase of the lighting-rate. He

admitted that the Corporation had to make annual grants of from Rs. 16,000 to Rs. 20,000 to make up the deficit in the lighting-rate fund. He did not believe that the law did not empower the Justices to make such grants, though he was aware that doubts were entertained on that point. At the same time he was not quite sure whether a redistribution of the lamps would not effect a saving which might secure efficiency in illumination, and dispense with the necessity of increasing the lighting-rate. That question had sometimes been urged upon the Justices, but had not been practically carried out. He did not see why this should not be done particularly when it involved the question of an additional half per cent. rate. It was also observable that the Justices seemed to be powerless in enforcing their contract with the Gas Company with regard to the illuminating power of gas, and that also occasioned a deficiency in the lighting fund. If they could enforce the illuminating power contracted for, the lamps could be posted at greater intervals than at present, and thus a saving could be effected. At any rate, he thought that the present grant of from Rs. 16,000 to Rs. 20,000 from the general funds was not grudged by the Justices, and he hoped that the hon'ble mover of the Bill would drop this additional half per cent.

With regard to water-rate, he readily admitted that the present supply was insufficient, and that if it was to be extended, more money must be had. The water-supply had undoubtedly proved a great blessing to the town, for which the rate-payers were greatly indebted to their first Chairman (Mr. Schalch); and he believed that if there was any act of the Municipality which had the unalloyed gratitude of the rate-payers more than another, it was the adoption of the water-supply system. But the benefit of the water supply had not been extended to the poorer parts of the town. No less than fourteen miles of bye-lanes still remained to be piped, and the reason given was that there were no funds. He believed that the object of the proposed extension of the water-supply was to lay down pipes in those bye-lanes where the poorer classes chiefly dwelt.

In considering the question of imposing an additional water-rate, he submitted that it was worth the consideration of the Council and the Select Committee whether such a scheme could not be devised as would, as far as practicable, relieve the poor of the burden which now existed, and make the rich contribute in proportion to their own demand for, and consumption of water. At present the water-rate was founded upon a most inequitable system. It would be remembered that the high pressure system had been introduced chiefly for the benefit of the rich who dwelt in two and three-storied houses. But, as had been pointed out by his hon'ble friend, the rich and the poor were made to pay alike. The rich man who lived in a palace and wanted water in the third floor of his house, and the poor man who lived in a hut, but who had not been able to lay on water because the water pipes did not run through the bye-lane in which he dwelt, were made to pay equally the five per cent. rate. That, he submitted, was neither fair nor just. When the Act of 1863 was passed, the water-rate was based on a just and equitable principle. It was this, that a general rate of two per cent. should be levied for water supplied at a height of three feet, and that a graduated scale should be followed for taxing persons taking water at a greater height than three feet. Now, he did not know whether the scheme which had been sketched out by the hon'ble member who spoke last would be practicable, because it would lead to complicated calculations; whereas the principle laid down by the Municipal Act of 1863 was easy and quite practicable. If, for instance, a general rate of four per cent., to cover the present working charges of the water supply, were levied from all persons who received a supply, say at a height of five feet, whether they laid on water or not in their houses, and an additional percentage, graduated according to distance, say of one per cent. for water supplied at a greater height than 5, 10, or 15 feet, respectively, then the collections from this graduated impost or rate would, he believed, cover more than was expected to be derived from the additional one per cent. rate. The effect of such an equitable adjustment of the

water-rate would be the relief of the poor and the proper taxation of the rich.

He threw out these suggestions for the consideration of the Select Committee. The plan of the hon'ble gentleman who spoke last was to measure the water by metre, but he was not quite sure whether that system would work satisfactorily. Then, with regard to this question of water-supply, he observed that the word "pumps" had been introduced in section 94, he did not know with what object, because stand-posts and not pumps were now used. If the object was to prevent wastage, he thought a self-closing stand-post would practically answer that purpose, whereas pumps would cause great trouble and inconvenience to the public.

He would now draw attention to section 188, which involved the question of bustee improvement. The Council were aware that that question now occupied a considerable share of the attention of the Justices, and he believed that some sections of this Bill were intended to cover the recommendations of the Special Committee of the Justices on the subject. Section 188 declared that huts might be removed from any bustee without the payment of compensation. But the present law provided that compensation should be given to the owners of huts for compulsory removal of the same. The provision in the Bill, he thought, would be unfair to the poor tenants.

The procedure for carrying out this provision would be somewhat in this wise. The Justices would require the landlord to remove the hut, he (the landlord) would be compelled to call upon the tenant to remove it, and the tenant would have to bear the loss. He did not think that it would be fair to burden the tenant with this loss. If the removal of a hut was intended as a sanitary measure for the benefit of the public, justice required that the public funds should bear the cost. Then the same section provided that it would be lawful for the Justices to call upon the landlord to "execute such operations" as they might think fit for the improvement of a bustee, in default of which the Justices would carry out the

said operations at the expense of the landlord. Now the power thus given to the Justices was very wide and indefinite. The law ought to specify the operations which it would be lawful for the Justices to compel the landlord to execute. On reference to some of the reports of the officers of the Municipality on bustee improvements he observed that one officer had actually recommended that a riveting wall should be attached to a tank, and another that a ghât should be constructed for washing and bathing in the tank, as sanitary measures intended for the conservation of the health of the locality. It was impossible to say what works might not be demanded from the landlord in the name of sanitary improvement by over-zealous officers, if the law were left so uncertain and indefinite.

Section 196 sanctioned the imposition of what was called in Bombay the *Halalcore* cess. Of course this was a very important work to be done by the Justices, but he thought the cess should be so regulated as not to take the form of a new tax. The residents of the town already bore the expenses of cleansing their necessaries and if the cost the Justices might levy should not exceed the charges already incurred by them, there would be no objection to the proposed cess. He thought the maximum rate of the cess should be defined in this Bill.

Section 197 required owners to provide privies for their tenants. None knew better than the hon'ble mover of the Bill that the practice in this town was for occupiers to provide latrines for themselves, and that as the women did not generally go to a public latrine, every occupier who had a family had, as a rule, his own private latrine, and he had it built at his own expense. But as this section was worded, it would be incumbent upon the owners of land to provide latrines for each occupier, and the Council could well conceive the cost which would be thus thrown upon the owner for this object. The Engineer to the Justices himself said that public latrines would not be resorted to by the poor inhabitants of bustees. He wrote :—

"There can be no doubt that the wisest plan would be to abolish privies in bustees entirely, and in their place to erect latrines which should be resorted to by all of both sexes. But is this practicable? and would the European poor, who are not imbued with the caste and other prejudices of the native, take readily to such a scheme?"

Such being the feeling of the people, the landlord under the proposed section must provide a latrine for the use and accommodation of every occupier, and the cost which would be imposed upon him would necessarily be enormous. He did not say that latrines should not be constructed: but where the occupier was unable to construct a latrine, the Justices should construct it and charge a fee. And as hon'ble members were aware these latrines were a source of profit, the Justices would not suffer any loss by such measure. But as a rule the occupier should be made to construct his own privy.

He had only a few more suggestions to offer for the consideration of the Select Committee. In the first place it was very desirable that the law should distinctly define the powers of the Justices and those of the Chairman respectively. Considerable misunderstanding prevailed with regard to the relative powers of the Chairman and the Justices. In regard to the bustee question itself, the Chairman contended that he had power under the existing law to initiate measures of improvement without consulting the Justices. The Justices, on the other hand, contended that the Chairman had no power to initiate such measures without obtaining their sanction. Now it was very desirable that, as the law was about to be consolidated, the powers of the Chairman and the Justices should be distinctly defined, so as to prevent future differences and misunderstandings. It might be well worth consideration whether the Chairman, who was the executive head, should not be more in the position of a moderator at the meetings of the Justices and have no power to vote. As the hon'ble member who spoke last had remarked, the Municipal Commissioner of Bombay had no seat in the Town Council. He would not go to that length, but would suggest, for the consideration of the Select

Committee, whether the Chairman would not occupy a more dignified position by acting as a moderator than playing the part of a partisan when the measures proposed by himself were under discussion.

With regard to assessment cases and appeals, he would allow appeals not only in assessment cases, but also in license cases. Though the Chairman under the law was authorised to regulate the license fees, as a matter of fact he had not time to do so, and the work was necessarily left to a subordinate officer in charge of the License Department. It was therefore very desirable that there should be an appeal to a board of Justices in license cases. This was allowed, he believed, under the Bombay Municipal Act.

Regarding assessment appeals, the hon'ble member who spoke last had correctly described the course followed in Bombay. The Board of Justices here, he submitted, very much resembled the quarter sessions in Bombay; and if the law allowed the Chairman or Vice-Chairman to revise assessments made by the assessor, and if appeal was made from their decisions to a Board of independent Justices, the object aimed at by the hon'ble member would be attained.

The hon'ble member had referred to the case of the Port Commissioners. He might mention that the assessment in that case was made on the principle that the additional buildings should bear the same proportion of assessment at which the existing buildings had been assessed; so there was no absence of principle in the assessment of the additional buildings of the Port Commissioners, as alleged.

Adverting to the water-rate, he remarked that he could not conceive upon what principle one-fourth of the rate was made payable by the owner and three-fourths by the occupier. The water was laid on solely and exclusively for the benefit of the occupier. If the occupier was made liable for the police and lighting-rates, he thought that the occupier, on the same principle, ought to pay the whole of the water-rate. With regard

to the mode of payment of the water-rate, he observed that it was now payable by the owner with power to recoup himself from the occupier. Now the lighting and police-rates were realized from the occupier direct, and on the same principle he thought the water-rate should be recovered from the occupier. He might observe that the law gave power to the owner to recover the water-rate from the occupier as an addition to his rent. Now, in the case of huts, this condition was attended with great hardship, inasmuch as under a recent ruling of the High Court the hut was an immoveable property, but removeable by the tenant. Thus the landlords now laboured under great difficulty in realizing their own rents, and it was by no means fair to burden them again with the task of collecting the water-rate from the occupiers in addition to their own rents.

Lastly, he would invite the attention of the Council and the Select Committee to this question—Whether there ought not to be some provision in the Bill which would enable the Justices to co-operate with the rate-payers to make improvements, when the latter came forward to bear a share of the cost of such improvements? There had been lately several cases in which rate-payers offered to pay one-half of the cost for the piping of streets and lanes for drainage and water-supply; but the justices could not be moved; as the law did not give the rate-payers power to demand such improvements on payment of costs. He thought that in such cases facility should be afforded to rate-payers to come forward and contribute. If, for instance, the residents of a bye-lane not supplied with water should combine and pay half the cost of the piping, the Justices ought to be made to pay the other half and carry out the improvement. There were many complaints heard in connection with this subject, and he believed that some such provision as he had suggested would stimulate the rate-payers to co-operate with the Justices to carry out improvements.

The Hon'ble Mr. Hogg moved at a meeting of the Council held on the 13th November 1875, that the Bill be taken into consideration in order to the settlement of its clauses.

The HON'BLE BABOO KRISTODAS PAL said that the hon'ble member in charge of the Bill had explained to the Council the reasons which induced the Select Committee not to recommend any change in the constitution of the Municipal Corporation of Calcutta. He certainly agreed with him that although the Bill had been before the public for such a long time, there was not any very decided expression of opinion as to whether any material changes were wanted in the present constitution of the Municipality. Not until only a month ago was any voice heard on the subject, and he believed the hon'ble member was not far wrong when he said that when the Bill was first laid before the Council, there was such harmony among the several component elements of the Corporation that no change whatever was wanted by any one section of the community. Unfortunately, there had been some friction within the last few months between the executive and the independent members of the Corporation, which had led to somewhat warm discussion, and which in a manner had brought about the present agitation. But independent of that, he thought the subject was well worth the consideration of the Council. The British Government in this country was a progressive one, and the institutions founded by it were essentially progressive in their nature; and as the people were imbued with Western knowledge and ideas, they longed for the Western mode of government, and for the introduction of Western institutions for the protection of their liberties and the advancement of their welfare. It was therefore not at all unnatural that the people of Calcutta, who were admittedly in the van of intelligence and enlightenment, should ask for that measure of self-government which had been accorded to other countries which owned allegiance to the British Crown,—he meant the British colonies and dependencies.

If hon'ble members would look back to the history of municipal government in this city, they would find that about twenty years ago there was an elective system in force. It did not work fairly for many reasons, and was therefore abandoned. Then came the municipal triumvirate. That system also worked for some years, when the public cried for a change. Next came the present Municipality. It was true that this Municipality was not representative in the sense in which that word was usually understood; still it represented, to a great extent, the intelligence, wealth, and respectability of the local community. He admitted that the Corporation, as at present constituted, had undergone changes since,—he meant its *personnel*,—and that the later nominations had to a certain extent (he did not mean to reflect upon individuals) detracted from the character of the Corporation. The Corporation had, however, done a large measure of good. Apart from the many measures of improvement which had been carried out under the present system, and to which reference had been made by the hon'ble mover, it had proved a good school of political training for the people of Calcutta. He might say that since the Corporation had been created, the rate-payers had evinced a lively interest in all its proceedings, and that was simply because the fullest publicity had been given to all that had been done by it. Both when the elective Board used to sit, and when the triumvirate was constituted under the Act of 1856, the proceedings of the Corporation were not published to the same extent as they were now. Then an abstract of the proceedings of the Municipal Commissioners was given to the newspapers, and the public were left to draw their own inferences from that meagre statement. Now the meetings of the Corporation were open to the public. The Press reported the proceedings *verbatim* for the information of the public, and thereby a healthy public criticism was evoked among all classes who paid rates and took an interest in the affairs of the town. If the proceedings of the Justices were so widely discussed by the Press and the public at large, it was due to the present whole-

some practice of publicity. The people of Calcutta being thus trained, and having acquired a proper appreciation of their own interests, naturally enough asked for a further extension of municipal privileges. They wanted, in fact, a larger measure of self-government. It was true that opinion was very much divided as to the scheme of local self-government best suited to the varied interests of the town ; still he believed that opinion was unanimous upon this point, that there ought to be some sort of selection in the election of those who governed the affairs of the town, and that there ought to be a greater freedom of action in the Corporation. The hon'ble mover of the Bill had stated that he doubted whether Government was prepared to give real self-government to the people of this town. He thought it was rather bold on the part of the hon'ble member to make such an assertion in the face of the declaration from the Hon'ble President that His Honour was prepared to consider any reasonable and judicious measure of self-government. He admitted that, constituted as Government was in this country, their rulers were not prepared to surrender the municipal government of the metropolis to the natives of the country ; but he believed that when the people wanted a measure of self-government, they did not mean that they should have the whole thing in their own hands. What they meant was that they should be associated with their European fellow-subjects in the task of local self-government. He might observe that the people of this country, if they were in any way to be useful to themselves and the nation at large, could only be so by associating themselves with their European fellow-subjects. They must learn a great deal, and under the direction and guidance of their rulers might prove themselves equal to the task which they might be called upon to perform. Since England had planted its flag in this country, there had been many important changes in its political organization and its internal administration, and the people had been invited to an active share in the administration of the country ; and he believed the Government would admit that they had not been found wanting in

taking advantage of that honorable and responsible position which it had pleased the Government to confer upon them. He believed that if the people of Calcutta were associated with their advanced European fellow-subjects in the government of the affairs of the city, they would not be found wanting. As matters now went, even if the Corporation was not considered a representative institution, still it was, to a great extent, a free institution, and he believed it would be admitted that his countrymen had done their part of the work well, and to some extent creditably. Looking to the success which had in some measure attended the attempts of the people of this city to work under and with their European rulers and fellow-subjects, he thought the further extension of the experiment of local self-government might be safely made in the administration of its municipal affairs.

He did not at all agree with his hon'ble friend that the views of the masses were opposed to improvement: that they wanted only the minimum of taxation and no improvements in the town whatever. The mass of the tax-payers of the town certainly did object to excessive taxation, simply because it was often succeeded by excessive expenditure. His hon'ble friend had pointed to some of the improvements which had been carried out in the town, and which had proved highly beneficial in spite of, or rather against, the wishes of the native community, and also in spite of the opposition of a portion of the European community. He believed the hon'ble member would admit that opposition to the measures referred to did not proceed so much from any desire to obstruct improvement as to prevent excessive expenditure or extravagance; and say what his hon'ble friend might, it could not be denied that, however successful had been the administration of the Municipality under the present system, it had been most costly, and in some cases the expenditure had been unjustifiably extravagant. He believed that were it not for the healthy control exercised by public opinion and by the working Justices upon the executive action of the Municipality, there would have been much greater extravagance and much more addition to taxation.

The hon'ble member in charge of the Bill had been pleased to remark that he would not, and he hoped the Government would not consent to delegate the executive duties of the Municipality to the *bonâ fide* representatives of the masses. He did not clearly understand what the hon'ble member meant by the phrase "*bonâ fide* representatives of the masses." He believed that many of the Justices professed themselves to be representatives of the mass of the rate-payers in the town, and if such Justices had not abused their privileges and position, he could not understand why his hon'ble friend should object to the *bonâ fide* representatives of the masses. He thought that any person who took his seat in the Corporation but did not seek to represent the mass of the rate-payers who bore the bulk of the taxation, did not deserve a place in that body.

Then his hon'ble friend had discussed briefly the comparative merits of selection and election, and was satisfied with the present mode of selection. He (Baboo K. D. Pal) had already said that the selections made by the Government had not been always happy ones. He believed he would not be far wrong were he to say that there were members of the Corporation who were not even acquainted with the English language, although that was the language in which the proceedings of the Corporation were conducted. Could it be expected that gentlemen who were not acquainted with English would be able to appreciate the merits of the measures proposed for discussion, or realize the character and gravity of the questions brought before them. Under any system, then, he would support the principle of election before selection. He admitted that the present Municipal Corporation was an unwieldy body; and if it was unwieldy, he was constrained to say that it was so owing to the action of the government. As originally constituted, the Corporation was somewhat unwieldy; but when the Government of Sir William Grey saw that the influx of the Bengal, Behar, and Orissa Justices hampered the action of the independent Justices, he eliminated that element;

but again additions had been frequently made to the body, perhaps at the instance of the executive head of the Municipality—he could not say with what object—and the corporation had again gradually become very unwieldy and ill-assorted. He thought it was of the highest importance that the number of members of the Corporation should be limited by law. As matters at present stood, any Chairman who should consider that there was not a sufficient following at his command might recommend the appointment of additional members, and the Government might assent to the recommendation, and thus the independent Justices might be swamped, and the Corporation might be made more and more unwieldy and less efficient. He thought that in the interests of the town the number of members of the Corporation should be limited. He also agreed with the hon'ble member in charge of the Bill that the tenure of office of the Justices as members of the Corporation should be limited to a term of years. At present the Justices were regarded in the light of life-peers. It was very desirable that there should be an infusion of new blood in the Corporation from time to time. But if there was to be an infusion of new blood, it ought to be done with the consent and support of those who were vitally interested in the working of the Municipality. He meant that the nomination and election of the new members ought to rest in the hands of the rate-payers, or in a body of their representatives. If the Government had the nomination, and if the Justices were to go out by rotation every three years, as proposed, then perhaps the most useful Justices, who in reality rendered the most substantial assistance to the Chairman, but who might be considered obnoxious by reason of their constitutional opposition, might be made to vacate office to the detriment of the best interests of the town.

Reference had been made to the waste of time at the meetings of the Corporation, which had kept away European gentlemen of position and influence, whose presence would be most desirable. He had closely watched the working of the Municipality for the

last twelve years, and he was sorry to say that the European residents of the town as a body at the best took very little interest in the business of the Corporation. He generally found the meetings of the Municipality, when personal questions came to the fore, better attended than when lakhs and lakhs of rupees were voted away, on which occasions many of the European Justices were conspicuous by their absence. And he could well understand the reason. The Europeans came to this country as birds of passage, and, as his hon'ble friend expressed it, they had no abiding interest in the land; and so long as they saw that their own wants and comforts were attended to, he was not surprised to find that they could not afford time to busy themselves with matters which did not immediately interest them. The Europeans in this country were quite willing to give their time to the promotion of public business, if it did not lead to much self-sacrifice; but, as had been pointed out, the municipal debates occupied much time, and as their time was valuable, they could not attend those meetings. But what would you have? Would you have a close borough system, with a view to promote the convenience of a few members of the European community? or would you have the widest publicity for the sake of the hundreds of thousands who were interested in the business of the Municipality? He fully subscribed to every word which fell from his hon'ble friend in charge of the Bill on this part of the subject. He had taken a board and liberal view of the question, and it was gratifying to him that his hon'ble friend, as the head of the Corporation, should advocate the widest publicity. If anything was criticised in these debates, it was his own proceedings; and he fully appreciated the feeling that had prompted his hon'ble friend to advocate the freest publicity. If the municipal debates unfortunately led distinguished members of the European community to avoid the Corporation, he confessed that that was a matter of deep regret; but in no civilized country was public business of that kind conducted without debates, and the

debating of questions meant the employment of a certain quantity of time for their discussion from all points of view.

He thought he had touched upon most of the important points which had been urged by his hon'ble friend in his opening speech, and although he was not prepared to submit a scheme of general election for the municipal local government of Calcutta, he had some ideas of his own on the subject, which he ventured to place before the Council not without the greatest diffidence. He had started with the proposition that there ought to be election and not selection, and, entertaining that view, he proposed that the municipal Corporation of Calcutta should be made self-elective. His plan was this. Let the number of the Justices who were to compose the Corporation be limited or fixed by law. Make it 100, 80, or any number you think reasonable. He might remind the Council that the City of London had a body of 200 Common Councilmen. He would, then, first limit the number of Justices to compose the Corporation, would next provide that one-tenth of them should retire annually or every two or three years, and that the remaining members of the Corporation should elect from amongst the rate-payers successors to those who would go out by rotation,—that was to say, the remaining members should form a sort of Board of Electors. The first election might be made by the present Justices from amongst their own body, or the first members might be nominated by the Government. Thus, if the Council should agree to limit the number to 100, these might be elected from amongst the 153 Justices of which the Corporation now consisted, or the Government might select the first 100, and one-tenth of this body, that is 10, should go out annually, and the remaining 90 should elect successors to those 10 from amongst the rate-payers, and any rate-payer possessing the necessary intellectual qualifications should be considered eligible to election. He would also fix by law the number of representatives of each section of the community, so that there might be no misunderstanding or confusion hereafter. That number should of course be regulated

by a consideration of the number of the population of the various sections of the community, of their stake in the city, and of the amount of their contributions to the municipal fund. These were matters of detail. If the general scheme was approved of by the Council, it might be considered in Committee. If such a system of a self-elective Corporation should prove successful, it might be considered hereafter whether the basis of election might not be extended. He proposed the scheme as a tentative measure only, but he was not prepared to propose any amendments at present. If the views which he had ventured to express should meet with any support in Council, he would submit the necessary amendments for the consideration of the Council.

(Section 6 provided that the municipal fund should be applied by the Justices as trustees for the purposes of the Act. The hon'ble Mr. Hogg moved to add to the Section the words "and for such other local purposes as the Justices at a special, general, or quarterly meeting with the sanction of the Local Government, may direct.")

The HON'BLE BABOO KRISTODAS PAL said he considered it his duty to oppose the amendment. He thought the power of the Justices to expend money could not be too much guarded. He had just now alluded to the extravagance which sometimes characterized the operations of the Justices, and if this additional power were vested in them, he feared it would lead to considerable waste of the hard earned money of the tax-payers. His hon'ble friend had said that sometimes the Justices themselves regretted their want of power to expend money for what they considered legitimate objects. He was not aware that the Justices had found themselves fettered from granting money for a single object which properly came within the legitimate scope of the Municipality. The only question which he remembered to have been raised was in connection with the reception of His Royal Highness the Prince of Wales, but that was an exceptional case, and by a stretch of the law provision had been made by the Justices for the purpose. But if the desire of his hon'ble friend for the introduction of the words he

proposed were acceded to, he could not conceive the variety of subjects that might be brought within this drag-net. As his hon'ble friend was well aware, the municipal fund was charged with a very heavy debt, the interest and sinking fund for which was nearly equal to the ten per cent. house-tax, or ten lakhs per annum. The Justices had, besides, an expensive establishment, the drainage works were not completed, and required a further expenditure of more than thirty lakhs. The water-supply was insufficient and might have to be doubled up. So that the legitimate wants of the town could not be met from the funds available, and he was of opinion that it would be a prostitution of the power of the Justices if they were permitted to apply their funds at their discretion, of course with the sanction of the Government, which, an experience showed, could be easily obtained, for objects not directly connected with the health and comfort of the people.

At a meeting of the Council held on the 18th November 1875, the Bill was further considered.

Section 65 provided for the levy, amongst other rates and taxes, of a water-rate not exceeding six per cent. when the houses and lands were situated in streets supplied with filtered water, and not exceeding 5 per cent. in other parts of the town.

The HON'BLE BABOO KRISTODAS PAL moved the substitution of "five" "for six" in paragraph one, clause (b), line one. He said that in Select Committee they had agreed to a rate of 6 per cent., because the information then before them showed that without the additional 1 per cent. it would not be practicable to carry out any extension of the water-supply. But the subsequent increase in the assessment of lands and houses in the town had brought in a large accession of revenue, about Rs. 65,000 for 5 per cent., and he believed that when the whole town should be re-assessed, the yield would be much greater. At present there was an increase of about Rs. 58,000 for $4\frac{1}{2}$ per cent., and on referring to the budget for next year, he found that the Justices were enabled, after providing for

interest, sinking fund, and working charges, to set apart Rs. 45,000 for extra works, viz. Rs. 30,000 for extension of the water-supply, Rs. 10,000 for the flooring of Pulta Tanks, and Rs. 5,000 for additional hydrants, and all that with the rate proposed to be fixed at $4\frac{1}{2}$ per cent. And if we took the other half per cent., the total addition to the water-supply revenue, over and above the usual yield of that tax, would be about one lakh and ten thousand rupees. He did not therefore think it fair to increase the maximum of the water-rate from 5 to 6 per cent. He believed that the arrangements already contemplated for the increase of the filter tanks at Pulta, to which his hon'ble friend had referred, coupled with the additional supply of the Chandpal Ghât scheme, would, to a great extent, meet the wants of the town ; but if the new filters would not completely meet the want expressed on all sides for an additional supply of water, the funds which would be derived from the levy of the full 5 per cent. rate would enable the Justices to go on further increasing the supply. If, however notwithstanding the large accession of revenue by increased assessment, the Justices still found the funds at their disposal insufficient to meet the demand, it would then be time to consider whether the rate should be increased.

In reply to the remarks of Mr. Schalch—The HON'BLE BABOO KRISTODAS PAL said the hon'ble member who had just addressed the Council seemed to think that the interest on the Capital of the Chandpal Ghât scheme was not covered by the present revenue, and that the remaining half per cent. would be required to meet it. But he would beg to remind the hon'ble member that the budget of 1876 covered all charges, interest, sinking fund, working expenses, and the cost of new works to the tune of Rs. 45,000. The rate was now taken at $4\frac{1}{2}$ per cent., so that there would still be a margin of half per cent. if the maximum were fixed at 5 per cent., and that half per cent. would bring in about Rs. 60,000, taking 1 per cent. to yield Rs. 1, 18,000. Taking, then, Rs. 60,000 and the extra charges incurred in the present budget which were not of a recurring nature, an additional revenue of more than a lakh of

rupees from 5 per cent. water-rate would be available to the Justices.

The HON'BLE BABOO KRISTODAS PAL moved amendments in paragraphs 3 and 4 of the same section with the object of making the water-rate payable by the occupier instead of by the owner. He was of opinion that in equity the water-rate ought to be paid by the occupier. Strictly speaking, it was the occupier who derived benefit from the water-rate, and therefore it was right and proper that he should pay it. In another amendment he proposed that the occupier should be charged with the whole of the water-rate. But even if that point was not agreed to, still he was of opinion that the water-rate ought to be paid by the occupier, as he had to pay three-fourths of the rate, and he should be empowered to recover one-fourth from the owner by deduction from the rent paid by him.

The amendment being carried, the HON'BLE MR. HOGG said that they should now consider the principle whether occupiers of houses should not have the right to deduct from the rent, in the event of their paying the water-rate, the portion appertaining to the owner, one-fourth, which may have been paid by them in advance. As the Bill stood, the rate was collected from the owner, and he had the right of recovering three-fourths of it from the occupier.

The HON'BLE BABOO KRISTODAS PAL said, one of the amendments of which he had given notice involved the principle that the whole of the water-rate ought to be paid by the occupier. Under the existing law three-fourths were paid by the occupier and one-fourth by the owner. He considered that the principle on which this division of the incidence of the water-rate had been made was unsound in theory and inequitable in practice. The water-supply had been introduced immediately for the benefit of the occupier, and it was but fair and just that the occupier should bear the full burden, just as the lighting of the town was intended for the benefit of the occupier, who paid the lighting-rate. The police also

was for the protection of the occupier, and he paid the police-rate. For the same reasons he thought the whole of the water-rate should be borne by the occupier, who received a *quid pro quo*. It had been urged that water was used by the Municipality for general purposes, such as watering the streets and the conservancy. He could not understand that the occupier had less interest in conservancy and the watering of streets than the owner. In fact the occupier had a greater interest than the owner in the whole of the improvements carried on by the Municipality. It might be said that these improvements enhanced the value of house property which undoubtedly benefited the owner, and that therefore he ought to contribute towards the cost of the improvements. But the owner was paying, or under the law was liable to pay, half of the municipal rates; he meant the house-rate at the maximum rate of ten per cent. Under the present law it was true he had been made to pay one-fourth of the water-rate, but that, he submitted, was unjust. In discussing this question of the water-rate, the Council ought to remember the class of people who bore the greater part of the burden. It was the class of owner-occupier, who formed the majority of the population of the town: the bulk of the native population, nine-tenths, were owner-occupiers, and they paid the whole of the water-rate. So that, strictly speaking, there would be no change made in respect of this class of occupiers. With regard to those occupiers who occupied houses belonging to others, if they derived the whole and immediate benefit of the water-supply, it was fair that they should be made to bear the whole burden. His motion would be that the whole of the water-rate be made payable by the occupier.

Section 110 declared the quantity of water to which a householder should be entitled for domestic use.

The HON'BLE BABOO KRISTODAS PAL moved the omission of this section, which he thought was by far the most important of the sections relating to water-supply. It altered the system of supply adopted by the legislature and in force for the last six years.

Hitherto the rate-payers were given to understand that they were to contribute according to the value of their houses, and to get a supply of water without restriction for domestic use. Now it was proposed that the water was to be sold to the rate-payers according to their respective contributions, and that an additional charge should be made for any excess above the regulation quantity. He could understand the principle of this section if the levy of the rate had not been made compulsory—if the water-supply had been treated as a commercial transaction only. But when the rate was imposed as a compulsory tax, and when the tax was imposed under the understanding that a full supply of water would be given, he considered that it would be a breach of faith now to introduce the commercial principle by way of supplement to the compulsory tax. He could assure the Council that this section was regarded by the native community with great consternation, and that if it were enacted into law, it would convert the water-supply into a curse instead of a blessing. Since the water-supply had been introduced, the natives had filled up their old wells and tanks, and they would experience great inconvenience if they were now restricted to a scanty supply; and if to that was added the proposal for charging an additional rate for excess supply, it would be imposing a grievous burden upon the poorer classes. Hon'ble members were doubtless aware that the Hindoos for the most part lived in joint undivided families, and that they were generally poor, living from hand to mouth, and that in every one of those houses numbers of individuals lived together and drew water from the same supply. The monthly rental of such houses did not ordinarily exceed Rs. 40 or Rs. 50; the number of souls in a joint family might be twenty. The owner or proprietor in whose name the house was registered would be entitled to a certain quantum according to the scale laid down, and he must provide for the excess quantity at an additional expence. Thus these poor people would not only have to pay a 6 per cent. rate if the maximum were imposed, but must also undergo additional expence for the excess supply which they must have,

as the old supply by means of tanks and wells had been discontinued. The rate of one rupee for every 1,000 gallons was also most arbitrary: The actual cost of water did not exceed four annas per thousand gallons, and it was proposed that the Justices should make a profit of twelve annas for every 1,000 gallons for supplying water to those whose money had provided the water-supply.

At a meeting of the Council held on the 20th November 1875, the Bill was further considered.

The HON'BLE BABOO KKISTODAS PAL said, the water-supply of Calcutta was not a voluntary system ; it was based upon a compulsory system of taxation, and if any distinction were made between the Government and private individuals, because there were certain Government buildings which required water at double the height sanctioned by the existing law, the legislature would be making an invidious distinction between the Government and the public at large. It was well known that water could not at present be supplied to the highest rooms of some of the houses in the town, and the Justices had no power to grant a remission of any portion of the water-rate to the occupiers of such houses. There was great complaint on this score, and provision was accordingly being made in the present Bill to regulate the hours at which the pressure should be put on. It was observable that those who built houses with stories higher than 50 feet did so with their eyes open, because, under the water-supply scheme, pressure could not be given to a greater height than 50 feet, and when the Government had done so, it ought not now to grumble. To keep up the pressure at 100 feet would be to double the capacity of the pipes and the engine-power, which would entail great expenditure. At the same time to grant remission of the water-rate because water was not supplied to particular rooms or to particular portions of a house, would be opening a wide door to favoritism. He would therefore oppose any amendment on the subject.

In reply to the remarks of the speakers who preceded him—

The HON'BLE BABOO KRISTODAS PAL said he was not prepared to recommend any change in the law, because it would lead to great confusion and cause serious loss of revenue to the Municipality. As he had already observed, the water-rate had been imposed on a different principle altogether. If the principle were that each person should be taxed according to the quantity of water consumed, then the Government would have a right to a remission of the water-rate on account of particular portions of buildings not being supplied with water ; but as the principle of the water-supply scheme was different, and the object was to raise a sufficient amount of revenue from all classes of rate-payers without distinction, with a view to supply water throughout the town, he thought the present law was both just and equitable.

The postponed Section 110 declared the quantity of water to which a householder was entitled for domestic use, and the rate at which additional supplies must be paid for.

The HON'BLE MR. HOGG moved the substitution of 1,500 gallons for 1,000, and the addition of the following proviso :—

“ Provided that the provisions of this section shall not be put in force in respect of houses assessed at less than Rs. 1,200 per annum.”

The HON'BLE BABOO KRISTODAS PAL said he was quite willing to accept the compromise proposed by the hon'ble mover. He admitted that it was very desirable to check wanton waste of water, but, as he had pointed out at the last sitting of the Council, there were other provisions in the Bill which provided a sufficient check in that respect. The size of the ferule in small houses was in itself a good and wholesome check, and the penal provisions of the Bill would also operate towards that end. But the section as it stood originally contemplated the wholesale restriction of the supply of water, without any distinction between rich and poor, or those who wantonly wasted water and those who used it economically. The section as now proposed to be amended left out a large class of persons from its operation, namely all persons who occupied houses the

assessed value of which was less than Rs. 100 a month. That exemption would reach a very great portion of the poorer and middle classes; and so far it was a great point gained. As regards the quantity of water to be sold for a rupee, it was now proposed to be raised to 1,500 gallons. He would have preferred if it had been raised to 2,000 gallons; but as the hon'ble member was not willing to concede that point, he would not press it, but leave it to the sense of the Council to decide. The hon'ble member had said that it was not intended to put this provision in force generally. But he would not put much faith in discretionary government of this kind. The hon'ble member as the present head of the Municipality might not wish to enforce this section, but who knew what his successor might do. The amendment would, however, to some extent act as a safeguard.

The HON'BLE MR. HOGG'S amendments were then agreed to, and the section as amended was passed.

Section 112 enacted that all latrines supplied with water should be provided with cisterns.

The HON'BLE BABOO KRISTODAS PAL moved the omission of this section. The section required that cisterns should be put up in all latrines and water closets. He did not think the Council ought to anticipate the Justices in a matter of this kind. This matter had never been brought before the Justices, nor was he aware that any report had been called for from their Engineer. He therefore doubted whether the Council was in a position to provide by legislation for such a question. Practically, the system, as far as he had learned by inquiry, had not worked satisfactorily, particularly in native houses. The cistern was filled by a very small tube through which the water entered so very slowly that it took about half an hour to fill it, and as each man passed out the cistern was emptied and it took another half an hour to fill it up. In this way the system caused great inconveniencé. If the hon'ble mover did not wish that latrines in native houses should be connected with the new sewers, he was perfectly right in proposing this section. But

he was sure, that that was not his object, and he was therefore of opinion that the provision under consideration ought not to find a place in the Bill. It ought to be left to the discretion of the Justices to make such arrangements as they might think fit and convenient, and if it were found practicable to adopt the cistern system, they might do so. But he did not think the Council was in a position to legislate in the matter.

Sections 138 to 143 provided for the preparation and passing of the police budget.

The HON'BLE BABOO KRISTODAS PAL moved that Sections 138 to 143 be omitted from the Bill. He said that these sections related to the police budget. The Select Committee, in considering these sections, had placed before them the views of the Government, as represented by the hon'ble member in charge of the Bill. They were informed that the Government was not now disposed to continue to the Justices the power of controlling the police in any way; and as far as the consideration of the police budget was concerned, the Justices therefore, although it was not stated in so many words, would be reduced to the position of "message bearers." It would be in this wise: the Commissioner of Police would send up the budget to the Justices, and the Justices would hand it up to Government; the Justices should raise the police-rate, and Government would disburse the money. This was practically the scope and object of the Bill as amended by a majority of the Select Committee. He did not know how far the position assumed by the hon'ble member in charge of the Bill had been influenced by Government, but he submitted that that position reflected upon the Justices as a body, and he was not aware that any cause had been given to Government for such a course. It was in 1867 that the police-rate was first imposed by the Government upon the people of Calcutta. Previous to that, the whole of the police charges had been borne by Government, who controlled the police and met its expenses. In 1865 he believed, when Sir Charles Trevelyan was Finance Minister, the Gov-

ernment of India decided that towns in the country should be called upon, to bear the greater portion of the police charges; and in the case of Calcutta, it was resolved that the Municipality should bear three-fourths and the Government one-fourth of the cost. That resolution of the government of India was embodied in Act XI of 1867. With a view to give the rate-payers a voice in the police administration of the town, the Justices were vested with the power of considering and passing the police budget. From 1867 up to that time this system had been in operation, and he would appeal to the hon'ble member in charge of the Bill to say whether at any time there had been any undue interference by the Justices with the action of the Commissioner of Police or the Government in the administration of the police. It was meet, he thought, that the Justices, as representatives of the rate-payers, should have a voice in the administration of the funds which were raised by them. That being the case, he did not see any good or valid reason why the power which had been exercised theretofore by the Justices without detriment to the police, should now be withdrawn. It was urged in Select Committee that there might arise some contingencies which might render the relations between the Justices and the Government anomalous, something in the womb of future which could not now be anticipated. But if the Government was anxious, as he believed it was, to extend a measure of self-government, it was a curious way of expressing its anxiety by withdrawing a power which the Justices had long possessed, and which they had never abused. He was sorry to see that his hon'ble colleague (Mr. Brookes) was not there that day to express the views of the European community; but from what he said in the Select Committee, BABOO K. D. PAL believed that the views which Mr. Brookes expressed were shared by the non-official community generally. It would be painful to him, as well as to the other non-official members of the Council, if the question was made an issue between the Government and them; but he hoped that the Government would on further consideration

admit the importance of the subject, and not take any hasty action in the matter. But, as he had said, the Justices had done nothing to forfeit the confidence which the present law reposed in them; on the contrary, the Justices, while criticising the police budget and making suggestions now and then, had uniformly passed it in its integrity. He thought it was assuming too much to say that the power was likely to be abused, and that therefore it ought to be withdrawn. He might point out that since the maintenance of the police had devolved on the town, there had been a tendency to increased police expenditure; but he believed the hon'ble mover would admit that the Justices had in no way meddled. They were well aware that police arrangements ought not to be rashly interfered with, and that one man should, if practicable, rule over the police, and that that man ought to be the Commissioner of Police; and with that view, if they had any important suggestions to make in respect of police administration, they ought to go through their Chairman, who was Commissioner of Police, and they had done so. Having regard to these facts, and believing that it was much better that the Justices should be altogether relieved of all connection with the police than that they should have placed before them a mere shadow without the substance, he would propose that these sections be omitted, and that the old sections of the existing Act be restored.

The HON'BLE BABOO KRISTODAS PAL wished to say a few words in reply to certain remarks made by the HON'BLE MR. HOGG and the ADVOCATE GENERAL.

While appreciating the feelings which had prompted the hon'ble and learned Advocate-General to address the Council, he regretted that he could not agree with him. But he seemed to have lost sight of the fact that when the police-rate was first imposed upon the town by Government, it was, if he remembered it aright, distinctly declared that a share should be given to the people in the administration of the police; that, in fact, the people should be invited to take a part

in that administration. That having been the object of the new police administration, the principle was recognized in the Act of 1867. That principle had been in operation for the last eight years, and it was admitted that it worked fairly. It was now proposed to go back and make the Justices only tax-collectors. He would ask whether such a position—he meant the position assumed under the new sections—was consistent with the previous declarations of Government and its present professions for the extension of local self-government. Then the hon'ble and learned member had pointed out that the fact that the Justices had not exercised the power of interference with the budget showed that there was no necessity for it. Might it not be said that the knowledge of the circumstance that the budget of the Commissioner of Police would be sifted by the Justices might have influenced that officer to frame it in such a way as to disarm criticism, and that the present law had had that good moral effect upon him? Then it had been said that the withdrawal of the power would cause no hardship to the Justices. But undeservedly it would imply a want of confidence in the Justices. The hon'ble mover had pointed out that under Act IV of 1866 the police was entirely under the direct control of Government. He admitted it. Section 8 provided that the strength at which the police of Calcutta should be maintained should be fixed by the local Government, subject to the sanction of the Government of India; so that its ultimate control was vested in the Governor-General of India in Council, and not, as the hon'ble member had stated, in the Bengal Government. The final control being vested in the Government of India, it was suggested in Select Committee that, with a view to provide against such contingencies as had been apprehended, it might be enjoined that in case of any difference of opinion between the Justices and the Government of Bengal with reference to any item of police expenditure, the decision of the Government of India should be declared conclusive. But that amendment was not accepted by the hon'ble member in charge of the Bill. He was still

willing to propose such an amendment if the Council would accept it. He did not wish that there should be no supervision of Government over the police, or that the decision of the Justices should be final in case of any difference of opinion between the Commissioner of Police and the Justices or the local Government. He would follow the theory of the law laid down in Act IV of 1866, that the ultimate control of the police be vested in the Government of India; that the final decision should rest in all matters with that Government; and if the Council would accept such an amendment, he would be prepared to move it.

At a meeting of the Council held on the 27th November 1875, the Bill was further considered.

The revised Section 68, which was the counterpart of Section 67 of the Bill, provided that, for the purposes of the house-rate, the owner of any land upon which a house was situate was to be deemed to be the owner of the house also.

The HON'BLE BABOO KRISTODAS PAL said he had given notice for the omission of this section. His objection was that it altered the present law. Under the existing law the rate for the land was realised from the owner, and the rate for the house which stood on the land was recoverable from the occupier or owner of the house. This section contemplated the levy of the whole rate for the land and house from the owner of the land, leaving him to recover the rate for the house from the owner or occupier of the house. He did not see the justice of this provision. The Municipality had a large establishment for the collection of the rates and taxes. It had also great facilities under the law for the realization of its dues; and if, notwithstanding those special powers and advantages, it was not able to realise its demand, surely it would not be just to throw the duty of the Municipality upon the owner of the land, who had to contend with great difficulties in the collection of his legitimate rent. The highest court in the

country had decided that a hut was moveable but not removeable, and consequently the landlord could not seize a hut for rent, and in not a few cases feared the landlord would be saddled with the rate for which the occupier was liable. The present law was fair and equitable. It took from the landlord the tax due from him, and from the owner of the hut or house the tax due from him. He did not see any reason why the responsibility for the rate in the cases under comment should be shifted from the occupier to the owner, and he therefore moved that the section be omitted.

In reply to the remarks of the speakers who preceded him—

The HON'BLE BABOO KRISTODAS PAL said that in reply to what had fallen from the hon'ble mover, he would point out that the present practice was what he had recommended in moving the omission of the section, and it had been in operation since the Act of 1863 had come into force, that was to say, for the last twelve years; and if there had been any confusion, surely the Justices would have come up to this Council for an amendment of the law on this point when so many amending Acts had been passed. Then the hon'ble member said, that except in *bustees* the the owner of the land was almost invariably the owner of the house which stood on it, and that it would be necessary to make out separate bills if the section as proposed to be amended by him were not adopted. Now, the Bill declared that the house-rate should be payable by the owners of houses and lands, and he did not think that any alteration would be needed if the present Section 66 which had been passed came into force. The provision in the Act of 1870, as pointed out by the hon'ble mover, only applied to the water-rate, and when that law was passed the water-rate was payable by the owner. That principle had now been modified, and the provisions of Section 7 of Act I of 1870 would not apply to the present case. He would therefore urge that the section before the Council be omitted.

Section 70 provided for the remission of a portion of the house-rate when a house was vacant.

The HON'BLE BABOO KRISTODAS PAL said this section was the same as Section 68 of the old chapter, in regard to which he proposed the addition of the following words to the end of the first paragraph :—

“It shall be lawful for the Chairman to exempt any unoccupied land from assessment for the period of non-occupation for special reasons shown to his satisfaction, subject to the approval of a Committee of Justices.”

Under the law, unoccupied houses and lands were chargeable with half the house-rate. It had, however, been the practice of the Justices for the last twelve years, and until a very recent date, not to levy any rate on account of unoccupied land during the period of its non-occupation. It was true that the law did allow the Justices to charge half rate, but they did not think it fair, and so they did not until recently levy it. Such being the case he was of opinion that this practice should be sanctioned by law. He need hardly point out that there were *bustee* lands in the northern portion of the town, the greater portion of which was unoccupied. If the rates were levied on the unoccupied portions of these lands, then the rates and taxes would almost swallow up the proceeds from the occupied portions thereof; and remembering that these *bustees* were in many cases the only means of livelihood of the owners, it would be hard if the law declared the unoccupied land to be chargeable with the half rate. He would propose that a discretion be given to the Chairman of the Justices to exempt any such land where he was satisfied that the imposition of the rate would be a hardship to the owner. He was confident that the discretion so given would be wisely exercised.

In reply to the remarks of the several speakers who preceded him—

The HON'BLE BABOO KRISTODAS PAL admitted the force of the objection, and would therefore accept the principle of total exemption, as had been the practice for the last twelve years. He would withdraw his amendment, and move that all unoccupied land be exempted from assessment.

He said the reason for the proposed exemption was this, that *bustee* lands in many parts of the town were not wholly occupied. Large portions of these lands lay unoccupied from year's end to year's end. It was true that the demand for land was increasing, but for that class of land it could not be said to be increasing to any large extent. In fact, poor people now found it much cheaper to live in the suburbs than in the town. And as the land lay unoccupied from no fault of the owner, and as its assessment under the half-rate clause would press very severely upon the poor proprietor, it was the exceptional circumstances of this property that called for exemption. Natives, it was well known, did not like to part with land, particularly ancestral land, however unremunerative it might be, and however poor their circumstances, and it would be extremely hard if they were forced to sell it.

The revised Section 77 provided as follows:—

“If any house is occupied by more than one person holding in severalty, or is of less assessed annual value than two hundred rupees, the Justices may impose the water, police, and lighting rates upon the owner of such house or upon the owner of the land on which such house is situated.”

He said he had given notice of an amendment in the corresponding section of the Bill. The council had accepted the principle that each class of rate-payer should pay his own dues to the Municipality, that was to say, that the occupier should pay the occupier's rate and the owner the owner's rate. Such being the case, he did not see with what consistency this section could be adopted, because it enabled the Justices to recover from the owner the police, water, and lighting rates of a house of less annual value than Rs. 200. There was, it was true, a similar section in the present law, but it was justified on the ground that the rates were now payable in arrear. And as it was believed that the Municipality might suffer considerable loss in recovering small sums from small tenants, the law required the owner to recover these small sums from the occupier. The law having now been amended, and the occupier's rate

being now made payable in advance, the liability to loss would be minimised, and he therefore thought it would be consistent to amend this section in conformity with the principle already accepted by the Council. With this object he would move the omission of the words "or is of less assessed annual value than two hundred rupees" and "or upon the owner of the land on which such house is situated."

Section 251 provided as follows :—

"Whenever the Justices in meeting, other than an ordinary meeting, are satisfied, from inspection, or by report of competent persons, that any existing block of huts in the town is, by reason of the manner in which the huts are constructed or crowded together, or of the want of drainage and the impracticability of scavengering, attended with risk of disease, or prejudicial to the health of the inhabitants or the neighbourhood, they may cause a notice to be fixed to some conspicuous part of such block of huts, requiring the owners or occupiers thereof, or, at the option of the Justices, the owner of the land on which such huts are built, within a reasonable time, to be fixed by the Justices for that purpose, to cause such huts to be removed, and such roads and drains to be made and the low lands to be filled up, and to execute such other operations as the Justices may deem necessary for the avoidance of such risk.

"And in case such owners or occupiers of the land shall refuse or neglect to execute such operations within the time appointed, the Justices may cause such huts to be taken down, or such operations to be performed as the Justices may deem necessary to prevent such risk; and the expenses thereby incurred shall be paid by the owner of the land.

"If such huts be pulled down, the Justices shall cause the materials of each hut to be sold separately, if such sale can be effected, and the proceeds shall be paid to the owner of the hut, or if the owner be unknown, or the title disputed, shall be held in deposit by the Justices until the person interested therein shall obtain the order of a competent court for the payment of the same.

"The Court of Small Causes shall be deemed a competent court for that purpose."

The HON'BLE BABOO KRISTODAS PAL moved the following amendments :—

- (1) to insert after "neighbourhood" the words "which shall be certified by at least three medical officers;"
- (2) to insert "main" before "drains";

- (3) to omit from the end of the first paragraph the words
“and to execute such other operations as the Justices may deem necessary for the avoidance of such risk.”

He said, perhaps it would be convenient to discuss this section with the section of which notice had been given by the hon'ble mover, because this section as well as the proposed new sections were all connected with the question of *bustee* improvement.

[The HON'BLE MR. HOGG thought it would be better if the section before the Council were discussed on its own merits, leaving out of consideration for the present the sections of which he had given notice.]

The HON'BLE BABOO KRISTODAS PAL continued :—This section, as at present worded, was very equivocal, because in the first place it was not clear how the circumstance of the liability of a particular locality to risk of disease, or its prejudicial effect upon the health of the inhabitants of the neighbourhood, was to be ascertained. He dared say it was contemplated that the Justices should be first advised by their Health Officer of the dangerous condition of a particular *bustee* before they served the notice mentioned in the section. But there was no provision in the section which required the Justices to take the opinion of that officer. As the works contemplated by the section would be very extensive and expensive, he would recommend that in no case should any such works be ordered by the Justices without a certificate from three competent medical officers. He thought that in a matter like this, a matter of life and death, the opinion of three medical men ought to be had before any steps were taken under the section.

Then, as the section was worded, the owner of a *bustee* might be required to provide the whole of the drainage works that might be considered necessary. The Council were probably aware that a Committee of Justices had lately been appointed to report on the improvement of *bustees*, and they recommended that the main

drains should be constructed by the proprietor of the land, and that the subsidiary house-drains by the owners and occupiers of the huts. But, as this section was framed, all the drainage works might have to be done by the owner at the direction of the Justices. He would therefore qualify that part of the section by the insertion of the word "main" before the word "drain." Then, in the last clause of the first paragraph, there was no definite instruction given as to what was to be done. It was left to the Justices to order any operation to be undertaken, and if the owner made default, the Justices were to carry out the operation, and the expenses were to be recovered from the owner by distress and sale. The term "operation" was very comprehensive, and also very indefinite, and such a wide discretion left to the Justices was liable to be abused, and calculated to operate harshly on owners.

The HON'BLE MR. HOGG said he would now beg the attention of the Council to the sections which he had prepared with the object of enabling the Lieutenant-Governor to take such action as he might think necessary on the report of the Sanitary Commissioner of Bengal, in case the Justices found that the provisions of Section 251 were not sufficient to enable them to carry out the improvements they considered necessary, or in case they might not be disposed to put the provisions of the law into force.

The HON'BLE BABOO KRISTODAS PAL said he did not expect that these sections would be brought forward before the Council, because they had been thoroughly considered in Select Committee, and rejected by all the members of it, with the exception of the hon'ble mover. The Select Committee had arrived at that conclusion upon several cogent reasons, the chief of which he would now state to the Council. In the first place the Committee thought that the Council would be dealing unfairly with the Justices to take the power, as it were, from their hands and place it in the hands of the Government, because, as far as they could see from the reports of the Justices, they had not been wanting in their exertions to give effect to the provisions of the

law as it now stood. If the law was defective, it was not the fault of the Justices. Since the question was started six months ago, one or two *bustees* had been taken in hand by the Justices with the consent of the proprietors. Apart from that, the sections involved, he was constrained to say, a serious compromise of principle, because it gave the Government power to take land, as it were, without giving any compensation to the owners. A French philosopher once propounded the theory that property was theft. But these sections in effect proposed that the ownership of property was a crime which should be visited with confiscation.

They would empower the Government to deprive the owner of his estate for a time in order to carry out improvements which he might not have the means to carry out; and if the expenses of the improvement were not recovered from the proceeds of the estate within five years, the owner might be allowed a stipend from the income of the estate—for life it might be, for no specific time was mentioned—until the whole cost of the improvement was paid.

The Council having accepted Section 251, which gave power to the Justices to carry out the necessary improvements in *bustees* with a view to avoid risk of disease, he did not see why it was called upon to make further provision on the same subject. The section which the Council had just passed was broad and comprehensive enough. If the owner did not carry out the works enjoined by the Justices, they were empowered to do so, and to recover the cost from the owner. Thus a very wide discretion was vested in the Justices for the reclamation of *bustees*. And here he begged to state, for the information of the Council, that not only the native members of this Council, but of the Corporation, and the owners of *bustees* as well, were willing to co-operate with the Justices for the proper sanitation of the *bustees*. Since the present agitation had commenced at the instance of the hon'ble mover, who was Chairman of the Justices, the Council was aware that the Justices had come forward zealously and required the owners of certain *bustees* to carry out the necessary improvements. These improvements would

cover in some cases from about five to six years' income of the estates concerned. One proprietor, who was a wealthy gentleman and who was in a position to meet heavy expenditure, had consented to the execution of the works by the Justices. Other owners were not so fortunately situated, and it was well worthy of consideration whether, in ordering improvements, due regard should not be had to economy. If some of the proprietors had not as yet responded to the call of the Justices, it was more from want of means than from a spirit of obstructiveness. At the same time he should mention that, however unsightly and disagreeable these *bustee* localities might be, there was nothing to show that there was a greater rate of mortality in these *bustees* than in other parts of the town. We had had dismal pictures of varying merit from the pen of different writers of the state of these *bustees*, but not one of them had favoured the public with any reliable statistics on the subject,—not even the Health Officer of the Justices. This defect was pointed out by the Army Sanitary Commission, who said :—

“For sanitary purposes, information beyond that afforded by the general city death-rate, even if this were trustworthy, is absolutely necessary. The death-rates and also the disease rates must be localized. The officer of health has done the best in his power with the present data to localize the deaths (not the death-rates) of 68 groups of population, at one extremity of which stands Jora Bagan Street, to which 318 deaths are ascribed, while other groups give between 40 and 50 deaths. Facts of this class afford little real information, and it is to be hoped that in future reports the officer of health will be able to give not only the total death ratios to population of streets and localities, but also the ratio of deaths from endemic diseases. From a comparison of such data the localities where expenditure for sanitary purposes is most required could be at once ascertained.”

He was constrained to say that what the Sanitary Commission had remarked was absolutely true. There was nothing to show what had been the rate of mortality in these *bustees*. There were no statistics whatever : consequently all that had been written and talked about of the unhealthiness of the *bustees* was mere speculation. There had been no sanitary inquiry, and that although the

Justices had for twelve years had a responsible Health Officer. Judging from the general rate of mortality, in this town it might be said that it was less unhealthy than even English towns. Thus, in the United Kingdom, the death-rate was about $22\frac{1}{2}$ per 1,000 in London 24, in Manchester 30, in Liverpool 38, and in Sunderland 37. He was lately reading the debates in the House of Commons upon Mr. Cross's Bill for the regulation of artizans' dwellings and he found that the proposed legislation in England proceeded, on a complete scientific inquiry. The fullest inquiry had been made about the mortality in the neighbourhood of poor men's dwellings, and how far it was traceable to the causes attributed, and then a remedy was applied. But here no such inquiry had been made.

He would like to know what was the proportion of mortality in the *bustees* to the total death-rate of Calcutta. The sections proposed by the hon'ble mover left it absolutely to the discretion of the Government to call upon the Sanitary Commissioner to order particular works of improvement to be effected by the owner of a *bustee*, which if not done, the Government was to take the estate out of the owner's hands and place it under the management of the Justices, and then carry out the improvement. Now, what was the course to be followed in England in a similar case? He found that Mr. Cross, in introducing the Bill, made these remarks, and he believed the principle of the Bill had been substantially adopted since:—

"We think we cannot do better than provide that those who are to carry out the Act should be, in the city of London, the Corporation; in the rest of the Metropolis, the Metropolitan Board of Works; and in other large towns, the Town Councils, which are practically the sanitary authority. Who, then, shall put the Act in motion? We proceed entirely on sanitary grounds. We don't wish them to make great street improvements for their own glorification. It is only sanitary purposes that we have in view—therefore we think the Act should be put in motion by the medical officer, who, by his own view or when called upon by a certain number of rate-payers, would be bound to report and certify whether in his opinion the place was an unhealthy

district, whether disease prevailed there, and whether that was attributable to the badness of the houses. If he found it so, he would have to state that, in his opinion, it was an unhealthy district, and that an improvement scheme ought to be framed for it. That report would be forwarded to the local authority, being, in London, the Corporation; in the rest of the Metropolis, the Metropolitan Board of Works, and in large towns the Town Council. The local authorities would then take the matter into their consideration, and if satisfied of the truth of the report, and the practicability of applying a remedy, and of the sufficiency of their resources,—because we do not call on the Town Councils to ruin themselves,—they would pass a resolution that the district was an unhealthy area, for which an improvement scheme ought to be provided. The improvement scheme would be accompanied by maps, particulars, and estimates, defining the lands it was proposed to take with compulsory power, and providing for as many of the working classes as might be displaced in that area, either within the limits of the area or the vicinity thereof. In London that is a very essential matter. You cannot pull down a street in St. Giles' and send the people over to Battersea. If you displace the working class, you must lodge them in the vicinity of the locality, otherwise you make them paupers and deprive them of the means of subsistence.

“ ‘ I don't suppose that any member will think that Town Councils should have the power of taking other people's property without compensation. ’ ”

If such a scheme were proposed, it would be both reasonable and equitable. Where the owner was not able to carry out the improvement, he should be offered the option of doing so or receiving compensation for his estate. Then the Justices or the Government might take over the *bustee* after paying compensation, and set an example to other owners; and if it proved remunerative, the example would be contagious. He held that the sections were opposed to the principle of the legislation adopted in England. The principle of double government, acting through the Justices at one end and the Government at the other, would operate injuriously in practice; and as he believed that the sections already accepted by the Council were quite sufficient to meet the object aimed at, he would suggest that the sections drafted by the hon'ble mover should not be referred back to the Select Committee, as proposed by him.

The HON'BLE BABOO KRISTODAS PAL said, in reply to what fell from the HON'BLE BABOO JUGGADANUND MOOKERJEE, that he would read the following extract from the report of Dr. Lethby to the Commissioners of Sewers for London not many years ago:—

"I have been at much pains during the last three months to ascertain the precise conditions of the dwellings, the habits, and the diseases of the poor. In this way 2,208 rooms have been most circumstantially inspected, and the general result is that nearly all of them are filthy or overcrowded, or imperfectly drained, or badly ventilated, or out of repair. In 1,989 of these rooms, all, in fact, that are at present inhabited, there are 5,791 inmates, belonging to 1,576 families; and, to say nothing of the too frequent occurrences of what may be regarded as a necessitous overcrowding, where the husband, the wife, and young family of four or five children are couped into a miserably small and ill-conditioned room, there are numerous instances where adults of both sexes, belonging to different families, are lodged in the same room, regardless of all the common decencies of life, and where from three to five adults, men and women, besides a train or two of children, are accustomed to herd together like brute beasts or savages, and where every human instinct of propriety and decency is smothered. Like my predecessor, I have seen grown persons of both sexes sleeping in common with their parents, brothers and sisters and cousins and even the casual acquaintance of a day's tramp, occupying the same bed of filthy rags or straw; a woman suffering in travail, in the midst of males and females of different families that tenant the same room; where birth and death go hand in hand; where the child but newly born, the patient cast down with fever, and the corpse waiting for interment have no separation from each other or from the rest of the inmates. Of the many cases to which I have alluded, there are some which have commanded my attention by reason of their unusual depravity,—cases in which from three to four adults of both sexes, with many children, were lodging in the same room, and often sleeping in the same bed. I have note of three or four localities where forty-eight men, seventy-three women, and fifty-nine children are living in thirty-four rooms. In one room there are two men, three women, and five children, and in another one man, four women, and two children; and when, about a fortnight since, I visited the back room on the ground floor of No. 5, I found it occupied by one man, two women, and two children, and in it was the dead body of a poor girl who had died in child birth a few days before. The body was stretched out on the bare floor without shroud or coffin. There it lay in the midst of the living, and we may well ask how, it

can be otherwise than that the human heart should be dead to all the gentler feelings of our nature, when such sights as those are of common occurrence.

"So close and unwholesome is the atmosphere of some of these rooms, that I have endeavoured to ascertain, by chemical means, whether it does not contain some peculiar product of decomposition that gives to it its foul odour and its rare powers of engendering disease. I find it is not only deficient in the due proportion of oxygen, but contains three times the usual amount of carbonic acid, besides a quantity of aqueous vapour charged with alkaline matter that stinks abominably. This is doubtless the product of putrefaction, and of various foetid and stagnant exhalations that pollute the air of the place. In many of my former reports, and in those of my predecessors, your attention has been drawn to this pestilential source of disease, and to the consequence of heaping human beings into such contracted localities ; not merely that it perpetuates fever and the allied disorders, but because there stalks side by side with this pestilence a yet deadlier presence, blighting the moral existence of a rising population, rendering their hearts hopeless, their acts ruffianly and incestuous, and scattering, while society averts her eye, the retribute seeds of increase for crime, turbulence, and pauperism.

BABOO KRISTODAS PAL added that he did not mean to defend the condition of the *bustees* in Calcutta, but that sentimental exaggerations were always beside the truth.

At a meeting of the Council held on the 11th December 1876, the Bill was further considered.

Section 251, relating to improvements in *bustees*, having been read—

The HON'BLE MR. HOGG said that when this part was last considered in Council, it was decided that the section which gave power to the Justices to carry out improvements and sanitary arrangements among existing *bustees* should be somewhat less vague than was provided for by Section 251 of the Bill ; and it was further suggested by the Hon'ble the President of the Council that in giving that power to the Justices it would be desirable to enable the Government, in the event of the Justices refusing or not giving effect to the provisions of the section, to take measures with the view of giving effect to them.

The HON'BLE THE ADVOCATE-GENERAL said his hon'ble friend the mover of the amendment seemed to think that the Government should not take the initiative. Suppose the Justices did not wish to take measures in this direction. In such a case the Government ought to be entitled to initiate proceedings of a character so necessary to health. There was nothing in the section which compelled them to do so.

The section, the Advocate-General thought, ought to run thus:—"Whenever the Local Government was satisfied that any block of huts was in an unsatisfactory state," and then empower the Government to call upon the Justices to do what was needful in case they failed to take action in the matter.

The HON'BLE MR. HOGG said he would then propose to insert the words "in case the Justices omitted to take action under the last preceding section," then the Local Government should have the power of directing or taking such steps as may be deemed necessary.

The HON'BLE BABOO KRISTODAS PAL said that the sections as amended were certainly less open to objection than those which had been brought forward before. But in endeavouring to make the provision of the law definite, the hon'ble member in charge of the Bill had introduced certain works which, perhaps he knew better than anybody else in the town, could not be carried out in practice. He alluded to the filling up of low lands. This question was over and over discussed by the Justices, and the hon'ble member had himself admitted that the operation would involve an amount of expenditure which many proprietors would not be able to meet; and not only that, but it would not be practicable to get the earth necessary to fill up low lands with which the *bustees* abounded. Then, again, as the section was worded, he understood it to mean that works which might be specified by the medical officers must be carried out by the Justices, and that they were not to exercise any discretion in the matter. Suppose the medical officers recommended that a road 18 feet broad should be constructed. [The

Hon'ble Mr. Hogg :—"all or *any* of the works."] But the Justices would have no discretion to modify any of the recommendations of the medical officers. He was of opinion that the Justices should have a proper discretion in regard to the carrying out of the works, that was to say, to modify, if necessary, the proposals of the medical officers.

Then, again, clause 3 referred to the removal of huts. The occupiers were the persons who ought to remove huts, but the section also gave power to the Justices requiring either the occupier or owner to remove huts. The expenditure which would be thus entailed would fall upon the owners; and it was anything but fair that the proprietor should be made to bear the expenditure which would be incurred in the operation. Perhaps tenants might claim compensation for the removal of huts.

Then he came to the power proposed to be given to the Government to carry out such works, should the Justices omit to take action or neglect to carry out the law. He could well appreciate the anxiety with which Government contemplated the improvement of bustees, particularly when so much had been written and talked about sanitation by sanitary authorities in England. He submitted that it had not been proved that the Justices had been wanting in duty to give effect to the law. It had been admitted by the hon'ble member in charge of the Bill that the law as it now stood needed revision by reason of its indefiniteness. It was now proposed to give definite and sufficient powers to the Justices. If the Justices had deserved the confidence of the Government and the public in carrying out all other improvements in the town, he did not see why they should be restricted in this matter. About six months ago, the Chairman of the Justices energetically moved in carrying out improvement of the bustees; and he believed the hon'ble member would admit that the Justices heartily seconded him. So far as the works undertaken had gone, the Justices, as far as he was aware, had placed no obstacles in the way, though there had been difference of opinion in matters of detail; but on

the general principle there had been perfect unanimity of opinion. Some of the owners had also shown a good spirit, and made advances to carry out improvements suggested by the Justices. Now, seeing that even in England it had been found necessary to guard the power of the sanitary authorities with all manner of restrictions, he did not think it was fair that there should be introduced a sort of double Government in the sanitary administration of Calcutta. If it had been the fact that the Justices did not take due action, or had failed in performing their duties, then it might be proper and reasonable to arm the Government with the powers desired. But, as he had observed, the Justices had not in any way neglected their duty, and it would be showing a want of confidence in them to introduce the new principle.

At a meeting of the Council held on the 29th January 1876, the Bill was further considered.

The HON'BLE SIR STUART HOGG moved that the report of the Select Committee appointed to consider the question of the constitution of the Municipality be taken into consideration in order to the settlement of the draft clauses prepared by the committee.

The HON'BLE BABOO KRISTODAS PAL said, the principle on which these sections were based, he might say, affected the success of the whole scheme, and he was of opinion that it was a principle which had the character of dictating to the electors whom they should elect, and would not leave them freedom of choice. He quite appreciated the liberality of the Government in conceding to the rate-payers the right of election. But if he understood the wishes of the Government rightly, it was this, that the electors should have a full and unrestricted liberty of electing whomsoever they chose, and not that the Government should tell them that in particular wards they should elect particular men to represent their interests. It was true that at the outset the Government should reserve to themselves some power of nominating members of the

Corporation, and for that reason one-fourth of the members was left to the nomination of the Government. But with regard to the three-fourths, he humbly thought that full liberty should be given to the rate-payers to elect those in whom they might have the greatest confidence, be they Hindus, Mahommedans, Europeans, Jews, or Parsees. He would ask the council to consider what would be the position of a ward for which the Government should declare that the electors should elect a Hindu if they did not find a competent Hindu to fill the office. They might have greater confidence in some Europeans or Mahommedans, but under the law they would be driven to elect some Hindu, or should forego the right of election altogether. This, he considered, was not election, but dictation. The Government dictated that they should elect a man of this nationality or that, or should go without the right of election. That was not in consonance with the spirit in which this measure had been conceived. He therefore held that the proportions of nationalities provided in the section was not quite in accordance with the principle of the Bill. He admitted that the circumstances of Calcutta were peculiar; that there existed in this city a varied community with conflicting interests, but not always he hoped so. The working of the existing Municipality had shown that the interests of all classes of rate-payers were identical, and that they had one common object in view, viz. the good of the town. If, then, it were left to the good sense and judgment of the electors to elect representatives according to their own knowledge of persons competent to discharge the duties of Municipal Commissioner, it would accomplish the object aimed at. Entertaining that opinion, he would submit that the clause relating to proportion be omitted altogether, and that the electors be left entirely free to elect whomsoever they might think fit. It might be said that the larger number of rate-payers being Hindus, they would flood or swamp the Corporation; that was to say, the majority of persons elected would probably be Hindus, and that other sections of the community would be over-ridden. He did not think that that would

be the case. For his own part, he thought that the Hindus were well aware that they had to learn a good deal from Europeans, and that, in the matter of municipal management, they by themselves could not do much. United with Europeans, they could do a great deal, but single-handed the Hindus were too weak. So he did not believe that the result would be in the direction apprehended.

Then, again, he fully subscribed to the remarks which were made by his hon'ble friend opposite (Mr. Brookes) as to the desirability of raising the number of those persons who should not be Hindus or Mahomedans. But there ought to be some principle on which the proportion should be regulated. If, as he understood, the object of the principle on which this clause was based was that there should be representatives who had a stake in the city, and that therefore persons paying rates only should be considered eligible for election, if that was to be the real principle upon which election was to be based, then the Council should consider which portion of the community had the greatest stake in the town. He was sorry that this question was raised, but it could not be avoided if the rule of proportion were laid down. It was an invidious question, but he could not help alluding to it. If it were left entirely to the judgment of the rate-payers to elect whomsoever they thought fit, that question would not arise. Considering, then, the comparative stake which the several sections of the community had in the town, he thought the Council ought to regulate the rule of proportion accordingly.

With regard to the qualification of persons to be elected, his hon'ble friend had already anticipated him : in fact they had dwelt upon that point in their joint dissent. He had already given notice of a motion that the payment of taxes should be included in the qualification of persons to be elected ; and he had also given notice of another motion that the qualification of Rs. 100 should be reduced to Rs. 50. And here he should state, for the information of the Council, that in Select Committee he did not object to Rs. 100. But it had since been represented to him by

native gentlemen that the qualification of Rs. 100 was too high, considering the peculiar position in which educated native gentlemen, who would probably be most competent to discharge the duties under the law, were placed. He believed it would be admitted that it was in the highest degree desirable that the intelligence of the town should be fairly represented in the municipal body; and it was thought that the qualification of Rs. 100 in the payment of rates would be too high, and would exclude a large number of the educated natives from coming forward. Perhaps it would be convenient to discuss that amendment after the general principle of the clauses was disposed of.

Section 10 having been read—

The HON'BLE BABOO KRISTODAS PAL moved that this Section and the following be taken together. Section 10 required electors or persons qualified to be elected to apply to the Chairman of the Commissioners for registration of their names as voters or persons qualified to be elected, and then the Chairman would insert their names and publish the list. He would move omission of Sections 10 and 11 and the substitution of the following:—

“As soon as possible after the commencement of this Act, and subsequently on or before the first day of March in each year, a list of the persons qualified to vote at any election, and also a list of the persons qualified to be elected as Commissioners of the town, shall be prepared, printed, and affixed by the Chairman of the Commissioners in some conspicuous place in or near his office, and at the Police Station of each of the wards, or at some other conspicuous place in each of the said wards; and the Chairman shall forthwith give notice of such publication in one English and one Vernacular newspaper published within the town; and the said list shall be open to public inspection at all reasonable times of the day for fifteen days after the date of the publication of such notice.

“The Chairman shall be at liberty at any time to revise the said lists for the purpose of removing therefrom the name of any person not duly qualified and erroneously entered therein, or of recording the name of any person duly qualified and erroneously omitted therefrom.”

He might mention, for the information of the Council, that this was a section which had been originally agreed to by the

Select Committee at the first stage of their deliberations; but the hon'ble member in charge of the Bill, who was also the Chairman of the Justices, informed the Committee that it would be practically impossible for him to prepare correct lists with the materials at his disposal, and he thought it therefore necessary that voters should be required to send in their names, and he should then prepare a list from the applications so registered. Now, he submitted that if any one was in a position to prepare a correct list, or an approximately correct one, it was the Chairman of the Justices. He had the machinery at his command, which ought to enable him to know which of the rate-payers were eligible to act as electors or to be elected. The provision which he recommended was taken from the Bombay Act; and if in Bombay such a section worked successfully, he did not see why it would not work equally well here. The Chairman said that many houses in the town stood in the names of persons who were dead, and that therefore it was impossible for him to obtain the names of those who were actually now the owners of property or actual rate-payers. Supposing that the procedure which the hon'ble mover recommended, and which was embodied in the Bill, was accepted, it would not obviate the trouble the Chairman would have to incur in any case. Suppose a person sent in his application to the effect that he was qualified to vote. The Chairman must satisfy himself that he was a rate-payer, and paid Rs. 25 annually; and if the Chairman could not find his name in the assessment books, he must institute independent enquires, either from the collector's rate books or from the books of the assessing or some other officer at his disposal. In either case enquiry must be made. But if an elector were required to send in his application for the registration of his name, practically the new machinery would be brought to a dead-lock. Considering the peculiar circumstances of native society, he did not hesitate to say that there were many persons who would not trouble themselves to exercise the new privilege. If they, on the other hand, came to know that the published lists contained their names,

and they were recorded as voters, they would doubtless exercise the franchise; but he did not know that there would be many persons who would take any trouble before they knew that their names were entered in the list. The Chairman would perhaps have to go over the same thing twice if he had to receive names from applicants. First, he must satisfy himself that the names borne on the assessment lists were not correct; and secondly, that the application made was correct. It would be much better, he thought, if the Chairman took the initiative, prepared the lists and published them throughout the town, and invited persons to make any objections they might have before the electors were furnished with voting papers. As the system had worked fairly, as he was informed, in Bombay, he thought it ought to be adopted in Calcutta.

Section 17 specified the various objects to which municipal funds were declared liable.

The HON'BLE BABOO KRISTODAS PAL said he would take a preliminary objection to this section. He might remind the Council that the question of the application of the municipal funds was originally discussed in the Council and disposed of, he believed, in reference to section 5, in which it was proposed that the Justices should have power to apply municipal funds to other purposes than those specified in the Bill, provided the same were sanctioned by them in meeting. When that section was discussed in the Council, objection was raised by himself and an hon'ble member who was then absent (Mr. Schalch), and he believed by other members too, that such powers ought not to be given to the Justices, as the municipal funds were sufficiently burdened at present, and that they were not sufficient to meet the ordinary requirements of the town. The Council was divided, and that part of the section was thrown out. Such being the case, he doubted whether it was competent for the Select Committee to re-open the question, and extend the scope of the law for the application of municipal funds. He raised that objection in Committee, but he was in a minority. If

the object of the hon'ble member in charge of the Bill was simply to summarize the specific purposes to which the municipal fund was held to be applicable under the law, he would not object ; but the hon'ble member had gone beyond that ; he had considerably added to the objects to which municipal revenues were now declared to be applicable. In the joint dissent which he and his hon'ble friend opposite (Mr. Brookes) had recorded, they had specified some of those items, and he would take them one by one.

First of all, take the items under the heading "public health," which ran as follows :—"Defraying the cost of the construction and maintenance of hospitals and dispensaries, and of the charges of vaccination, the registration of births, deaths, and marriages, and taking a census." Now, under the existing law, which had been in force for the last twelve years, the Justices had no power whatever to make any grant for the construction of dispensaries and hospitals. He might remind the council that about five years ago application was made by Government to the Justices for a grant towards the re-construction of the Medical College Hospital. Government also appealed to some other public bodies, but were not successful, or only partially so. Government wanted six lakhs or more for this purpose, and the application to the Justices was renewed more than once. The local Government applied to the imperial Government, but there too the appeal was not quite successful. They then thought proper to apply to the Municipality, but the Municipality replied that they had no power to make a grant for such a propose. He should not be surprised, if this clause of the Bill became law, that the same application would be renewed once more, and the first item of additional expenditure would perhaps be the re-construction of the Medical College Hospital. He need hardly remind the Council that this hospital was an imperial institution, and was maintained out of imperial or provincial revenues. It would in fact be relieving the imperial or provincial revenues at the expense of the Municipality if such a provision as

this were inserted in the Bill, and such a charge thrown upon the municipal fund.

The next case was the item of "dispensaries." The only hospital which the municipal funds were required to maintain was the Pauper Hospital, and that very properly, as the poor of the town went there, and the town bore the charge. But in this clause not only were hospitals included, but also dispensaries. Now, there were one or two dispensaries in the town which were maintained by Government, one of them being the Sookea's Street dispensary. He would not be surprised if these dispensaries were thrown upon the Municipality for support if this provision were passed. Then, under the colour of this provision, it was impossible to say how many other institutions might be thrown on the municipal funds. There was the Mayo Native Hospital. Hitherto the Justices were not called upon to support it, because the law did not permit them to apply their funds to that purpose. He did not say that the support and maintenance of hospitals and dispensaries was not a good object. But what he did maintain was this, that the municipal funds had now numerous claims of primary importance which they could not fairly meet, and an increase of burdens upon them would necessarily lead to an increase of taxation.

Next, there was the item of "registration of marriages." Here they were called upon to anticipate legislation. There was no law which now provided for the registration of marriages.

He would next turn to paragraph 2 ; and there he found the words "and gardens," which he thought should be omitted. Now, the municipal funds maintained public squares in the town. This section gave power to the Commissioners to make gardens and supply funds for their maintenance. Perhaps hon'ble members of Council were not aware that some time ago a move was made to throw upon the municipal fund a portion of the charges for the maintenance of the Eden Gardens. At last it was decided that the Strand Bank revenue in charge of the Port Commissioners should, as heretofore, be applied to the maintenance of the Eden Gardens. Who

knew but that question might again arise? Then, again, the Commissioners might think it desirable to open new gardens. Of course gardens were proper and desirable things, but it was a luxury which the town was not in a position to pay for. And as the Commissioners should have a discretion to apply their funds to such purposes, there would be nothing to stay that discretion.

Then he came to "public instruction." If there was any one subject more than another which commanded his sympathy, it was this. For his own part, he believed that they could not spend too much money upon public instruction. But Calcutta, he must admit, was peculiarly situated. The number of boys attending schools of all classes was about 23,000; and here they had educational institutions of all degrees, from colleges to patshalas, and the people were able and willing to provide for the education of their children. He found that the number of boys under 12, taken from the last census returns, was about 37,000—a large proportion of these he took to be infants—and a great number of them went to schools other than patshalas, and the patshala-going population, he found from Mr. Woodrow's annual report, came to 3,312. It would be thus seen that, exclusive of colleges and special institutions for professional instruction and higher schools, both public and private, there were nearly 3,400 boys in patshalas receiving instruction. So the poorer classes of the community were not utterly destitute of educational means for the instruction of their children. If, then, it appeared that the people were able and willing to provide sufficient education for their children, it would be wantonly taxing them again for providing additional means of education. The result would be, as in the other cases, to relieve the imperial or provincial revenues at the expense of the Municipality.

Then he came to this clause—"erection and maintenance of public halls, police stations, lock-ups, and other needful buildings." He must confess that a more indefinite provision in law had scarcely been framed than this. In the first place it said "public halls and offices." He did not believe that the hon'ble member

meant that he would vote away municipal funds for the construction of offices which belonged to Government, or for the construction of halls all over the town. Then, again, "police stations." It might be thought desirable to have good houses for the accommodation of the police, but it might be more economical to pay rents than construct new buildings. Then he came to "lock-ups." It was only this year, he believed, that the Justices had voted a portion of the Fire-brigade Fund to the construction of the lock-hospital. [HIS HONOUR THE PRESIDENT.—That fund was at the disposal of the Government.] But if this section were passed the construction of other lock-ups and lock-hospitals might be determined upon, and the expense would probably be thrown upon the municipal funds, and to that extent Government would again be relieved. Then, again, he would refer to the words "needful public buildings." He did not understand what those words meant. They were very vague, but at the same time they were very comprehensive. And lastly, he would come to the words "generally all objects connected with the public safety, health, and convenience." These words, again, were so comprehensive, and at the same time so vague and indefinite, that anything and everything might be included under them.

Thus a wide latitude would be given to the Commissioners to spend the public funds which would be entrusted to them. If he rightly understood the original object of the Bill, it was simply this, that it should be a purely consolidation measure. He did not know that the opportunity would also be taken to increase taxation; and there was sure to be additional taxation if these powers were conferred upon the Commissioners. It might be said that the Commissioners would be elected by the people, and they might therefore be trusted with these powers. But the Council to-day had decided that two-thirds were to be elected by the rate-payers and one-third by the Government. Besides, the power to spend money, whether by Government or representative men, ought to be, and could not but be, too jealously guarded in this country.

The vast masses would be practically unrepresented in the Corporation, though the electoral franchise went down so low as Rs. 25 a year. The hon'ble member in charge of the Bill had pointed out that this would give an electoral body of only 13,000 persons, and it should be remembered that Calcutta had a population of over 450,000. To guard against the intrusion of the very poor into the electoral board, the Select Committee had provided that "land" for the purposes of this clause should not be land including huts; that was to say, the very poor were to be excluded from the privilege of voting. He therefore submitted to the Council that they could not be too jealous in conferring upon the Commissioners the power to spend money. The Municipality was already burdened with a heavy debt. The interest and the sinking fund alone amounted to more than ten lakhs per annum, or nearly equivalent to a ten per cent. house-rate. The drainage scheme had not been completed, and its completion would cost at least thirty lakhs more. Then the water-supply was notoriously deficient to meet the every-day requirements of the people, and to double it would require another thirty lakhs, and the doubling of it would some day or another come to pass. Then there were other numerous wants of the town which had yet to be provided for. The Northern division of the town was so much intersected with narrow streets and bye-lanes, that if the Municipality had funds at their disposal they could not be better applied than to the widening of some of these narrow and tortuous lanes. Then, again, while water was considered a blessing, he believed fourteen miles of bye-lanes were still unpiped for water; and while all these pressing wants of the town remained unprovided for, they were now called upon to give power to the Commissioners to fritter away their resources upon objects of secondary importance,—perhaps of no importance at all. In the name of the poor rate-payers of the town he did protest against this clause.

Section 19 empowered the Local Government "upon complaint" to direct the Commissioners to provide funds for carrying

out the compulsory provisions of the Act, viz. the maintenance of the police, the cleansing, drainage, and conservancy arrangements of the town, and maintenance of a proper and efficient supply of water.

The HON'BLE BABOO KRISTODAS PAL said he should mention here that the section, as originally drafted, had undergone material alteration after the Bill was brought to the last stage of the deliberations of the Select Committee, and the provision then was that if the Municipal Commissioners should make default in carrying out the compulsory provisions of the law, the Government would be competent to appoint Special Commissioners to carry on the municipal administration of the town. But the section as it now stood provided that if complaint were made to Government, the Government might order the Commissioners to carry out certain duties which they might have failed to perform, and the order of the Government should have the force and effect of a resolution passed by the Commissioners. There was a material difference between the provision so drafted and the provision adopted by the Select Committee. [HIS HONOUR THE PRESIDENT observed that it was not proper or necessary to refer in Council to drafts prepared in Select Committee.] But the section as it now stood was open to objection in another form. It began by stating that "on complaint" made, the Local Government might do so and so. Who was to make the complaint? Was it intended that if the Chairman should make a complaint to the Government, the Government might pass such an order; or was it intended that the complaint should be made by the rate-payers? That was a most important point, and ought to be cleared up. If, as he understood, the hon'ble mover of the Bill intended that the complaint should be made by rate-payers, then he would propose that the complaint should be made by a large body of rate-payers, say five hundred. If the section as worded were carried, and if it was intended that the Government might be moved to issue an order to the Commissioners on complaint made by the Chairman, then that would

practically neutralize the spirit of the new constitution. It would be useless to give the rate-payers power to elect representatives for the administration of the town, if it would be in the power of the executive to counteract their action.

The proposed Section 42 provided that if the Commissioner failed to provide sufficient funds to carry out the purposes of the Act, the Local Government might declare the rates and taxes to be imposed.

The HON'BLE BABOO KRISTODAS PAL said that this was the last straw which broke the camel's back. If this section passed, he would rather set his face against an elective system than vote for it in this form. The section gave power to the Local Government to modify or cancel rates which might be fixed by the Municipal Commissioners after full and mature deliberation. So long as this section should remain a part of the Statute Book, he did not know whether any independent gentlemen, with any feeling of self-respect, would care or would be willing to work for an object which would be likely to be set at nought at the pleasure of Government. The other day the Justices, after days of labour and discussion, came to the decision that a $7\frac{1}{2}$ per cent. house-rate would be sufficient for the year. The Chairman was not, of course, satisfied with that decision; and as, under the present law, the Government had no power to alter the rates, the Chairman was bound to accept the decision of the Justices so long as they saw no reason to alter it. But if the Government had power, under the existing law, in the way proposed in this section, then the Chairman might have at once gone up to Government, and the rate passed might have been cancelled. It might be urged that Government would not unnecessarily exercise that power. But at the same time he submitted, with due deference to the Government, that it would be chiefly inspired or guided by the Chairman in a matter like this. Government could not be expected to be master of those details which the Chairman, it was thought, ought to be; and in such a matter the Government would

necessarily be guided by the Chairman. With every deference to his hon'ble friend who now so ably filled the office of Chairman to the Justices, he submitted that the tendency of the executive had always been to expend money, and that tendency it had been the business of the working Justices to control. That, he submitted, was a healthy policy. He thought such a state of things was good for the town—good because the Chairman, as the executive officer, might be anxious to undertake works of improvement which it might be desirable to carry out, and good because there was an independent working body of Justices to temper the excessive zeal of the Chairman; and their conduct in this way helped to preserve the much needed equilibrium. But once that power was destroyed or lost, it would come to this, that the Chairman, however reasonably he might be overruled by the Commissioners, would have only to appeal to the Government; and as the representative of the Government, he would in nine cases out of ten be likely to be supported by it. Such being the tendency of this section, he was sorry he could not support it; and he was compelled to say that, if it were carried, it would defeat the very object for which His Honour so laudably sought.

At a meeting of the Council held on the 29th February 1876, the Bill was further considered.

THE HON'BLE BABOO KRISTODAS PAL said he desired to express his satisfaction at the course proposed by the hon'ble mover of the Bill. It had been announced at the last meeting of the Council that the Bill would be passed into law that day, but the hon'ble mover of the Bill had since thought fit to propose a re-commitment of the Bill to the Select Committee, and this proceeding, he was sure, would be gratifying to the rate-payers, who were so vitally interested in it. In describing to the Council the history of the constitutional clauses of the Bill, the hon'ble member had not, he was sorry to say, given all the facts connected with it. It

was true that His Honour the President had announced on a certain day his readiness to concede an elective system to the people of Calcutta; but as the Council were aware, no discussion whatever had ensued in the Council upon the statement which was then laid before it. The members of this Council had therefore had no opportunity to express their opinion upon the principle upon which the elective system was to be conceded to Calcutta. The Bill, or rather the statement of His Honour the President, had then, at a subsequent meeting, after the business of the Council was over, been referred to the Select Committee for consideration. There was thus no opportunity given to the Council to discuss the principle upon which the system was to be based. In Select Committee there had been considerable difference of opinion. He and his hon'ble friend opposite (Mr. Brookes) considered it their duty to record a dissent, but his hon'ble friend, the mover of the Bill, had not been pleased to refer to it even. He said that the report of the Select Committee on the amended Bill had been presented to the Council, as if the report were an unanimous one. They, the minority, had done their best to impress upon the majority their opinion that the proposed elective system, with the reservation of full power in the hands of Government, would be no boon; and he considered it his duty to state that he still adhered to that opinion.

The three memorials referred to by the hon'ble member in charge of the Bill, it was true, did not object to the principle of the elective system as a principle; but they did object to the powers reserved to the Government—powers which, in the opinion of many, would completely neutralize the spirit of the proposed constitution. The rate-payers of Calcutta could not but be grateful to His Honour the President for the liberal concession he had made in announcing that he was willing to give them the privilege of self-government; but they wanted a reality, and the question was whether the Bill, as framed by the majority of the Select Committee, gave a reality. With one voice the rate-payers had

declared that it was not a reality ; that it could not be a reality so long as the main spring would be in the hands of Government, and that it could not therefore be looked upon as a boon or a blessing. He fully appreciated the position in which the Government was placed in relation to the administration of municipal matters in the city. It was a foreign Government, and it must keep considerable power in its hands for the government of the capital of the empire. From its position it must be despotic to a great extent. But the question was whether elective institutions and despotism could run in parallel lines with each other. If the Government, assuming a despotic position, could not give full and complete powers to the rate-payers, the question was whether it was worth their while to accept the little measure that was proposed. He did not say that the people of Calcutta were not capable of governing themselves. Perhaps no other city in India possessed such a loyal population as this. It was true that the population was divided into sections and classes ; but on the whole there was such harmony amongst them, there was such a spirit of mutual co-operation, and there was such a spirit of obedience to the law amongst them all, that he might say, if the Government had full confidence in them and reposed in them the solemn trust of administering the municipal affairs of the town, it would not be abused. But of that the Government was the best judge. The existing system, though not representative in theory, had been to a great extent representative in fact. The Government had hitherto selected such members of the different sections of the community to be representatives in the Corporation as were considered qualified, by their intelligence, position, character, and public spirit, to take a part in the administration of the affairs of the town ; and the history of that body, whatever its shortcomings in other respects, showed that its members had not been wanting in intelligence or loyalty in the discharge of their duties.

He had said that the Council had no opportunity of discussing the principle of the constitutional clauses of the Bill. He might

remark that they had the strange spectacle of seeing the Bill in the hands of an hon'ble member who was himself opposed to its principle. Of course, from his position, it was his duty to take charge of the Bill; but that showed that there was at any rate no "community of sentiment and feeling" between His Honour the President and the hon'ble member in charge of the Bill in respect of its principle. He could not say what the opinion of the other official members of this Council on the Bill was; but, as a Government measure, he believed that they considered it their duty to support it. Such being the case, he might frankly and humbly say that he had not considered it his duty to move amendments at the last sitting of the Council, when the Bill was brought up again for consideration. He acknowledged with gratitude the patience, courtesy, and attention with which the opinions of the non-official members had been listened to both by His Honour the President and the official members of the Council. But their position was anomalous. They were a standing minority in the Council, two-thirds of the members being paid officers of Government; and considering that the present Bill was a Government measure, it could not be expected that the opinions of the non-official members would carry sufficient weight to influence the votes of the official members. These being the facts of the case, the non-official members gave it up as hopeless to persist in the amendments which they had thought it their duty to put before the Council at the previous sitting.

His hon'ble friend the mover of the Bill had announced that the Select Committee would be asked to consider some of those amendments, the principle of the Bill remaining of course as it was. He submitted that if these sections of the Bill were modified in the spirit in which the principle of self-government had been conceded, the outside public would not have much to complain of. But he did hope that that move was not intended for a mere tinkering of the Bill—that it was not intended for slight modifications here and there, whilst the spirit of the Bill remained

as it was. The public had cried out for the substance, and he hoped that a mere shadow would not be held out to them.

He had said that the rate-payers ought to feel grateful to the Government for conceding the principle of election. But the question really was not a question of election or no election, but such a management of the municipal affairs of the town as would promote the best interests of the rate-payers, consistently with their sentiments, feelings, wishes, and requirements. If that object could be secured by election, by all means give it; if by selection, by all means have it. But let that primary object be kept in view, and the Council would not go wrong. If they had before them that cardinal consideration that the good of the town was the object of the Bill, the Council could surely find the way to attain that object.

Much had been said outside of the importance of the elective system as proposed in the Bill. Now, the very essence of a representative system was that the representatives of the people should have sufficient power over the executive, but this Bill started with the principle that the executive should be appointed by the Government. The Chairman of the Commissioners should be the nominee and servant of the Corporation, and not in any way the representative of the Government. It was not necessary for him to say whether, under the existing circumstances of the town, the appointment of Chairman should be left to the Commissioners. But he did say that the elective system proposed was a very mitigated thing after all, when, in the appointment and dismissal of their chief executive officer, the representatives of the people would have no voice whatever. The hon'ble mover of the Bill took care, at the last sitting of the Council, to fetter still more the controlling power of the Commissioners as to the removal of the Chairman; for, though two-thirds of the Commissioners might vote for his removal, it would still be in the discretion of the Lieutenant-Governor whether the Chairman should be removed or not. Thus, the chief executive officer, who should be the spokesman of the

Commissioners, being appointed without the sanction of the Commissioners, and being subject to the control only of the Government as to his removal, he was of opinion that there, at any rate, the essence of the elective system could not be sufficiently preserved.

Then, the Government had taken power to appoint one-third of the Municipal Commissioners. He did not question the wisdom or the propriety of taking this power; but what he thought was this, that the Government was not going to concede to the town a thorough and complete elective system. It might be said that the Government kept this power lest the Corporation be swamped by Hindoos, as was urged by the hon'ble mover of the Bill at a previous stage of the Bill. But he had already said that the Hindoos would not understand their own interests if they did so. But supposing that the rate-payers did so, the conclusion drawn from that would be that, divided as the community of Calcutta was, there was not room for a pure elective system; that the city was not ripe for one. But as he had said before, it was not likely that the Hindoo rate-payers would so far forget their interests, as to swamp the Corporation with representatives of their own community; he could not too often repeat that single-handed they could not work successfully, but that united they could do a great deal.

The primary object of keeping so much power in the hands of the Government was stated to be that the Government had an enormous financial interest in the municipality of Calcutta; that it was the largest creditor of the town; and that, if the Government did not keep power in its own hands for the payment of interest and the repayment of the loan, its interests might seriously suffer. He had pointed out before, and he maintained still, that the law was sufficiently strong for the protection of the Government interests and those of the debenture-holders generally. If the Commissioners did not make due provision for the payment of interest and contribution to the sinking fund, the Government might at

any time move the High Court to compel the Commissioners to make such provision. But even if that were not sufficient, he would not object if the Government took power to itself to order the Municipal Commissioners to lay aside a sufficient sum on this account, and even to draw from the Bank of Bengal, on behalf of the Commissioners, a sufficient sum for the payment of interest on the loans and the formation of a sinking fund. If, however, he might appeal to his own experience in connection with the administration of the municipality in regard to the financial interests of the Government, he might mention one fact, that for the two years of 1873 and 1874 he believed the Government had not drawn a single pice for the sinking fund and the interest, and the Justices had had to pay up for the two years together, because the Government was not sufficiently mindful of its own interests; so that the Justices took more care of the interests of the Government than the Government itself.

The same remarks applied to the payment on account of the police. The police should certainly be maintained, and the police expenditure must be met anyhow. If the present Bill was not sufficiently stringent on that point, the power of the Government might be increased and strengthened as much as necessary for the due maintenance of the police. But he submitted that the law was quite sufficient for that purpose, and he might add that the Justices never made a default in the payment of police charges. With the exception of these two subjects, he did not see a single point in respect of which the Government should have greater power than it possessed under the existing law.

Another question was the reclamation of *bustees*, in regard to which it was said the lives and health of hundreds and thousands of the inhabitants were at stake; and in respect of that the Council were aware that the Government had taken special power. That being the case, where was the necessity for the Government to ask for more power? Where was the necessity for the Government to desire greater power of control than it did possess over the Justices

at present ? The great questions of drainage and water-supply had already been settled, and the Justices, or the Commissioners, had only to carry out the details. The principles in regard to those works were not open to discussion. The question, if it ever arose, simply would be whether the Justices, or the Commissioners, should expend five or ten lakhs of rupees a year on drainage, or two lakhs or ten lakhs on the water-supply, and so on. But the great principles of these works, he had already said, had been settled, and could not be re-opened. Were not the Commissioners fit to be entrusted with the settlement of details such as these ? He knew that sometimes differences had arisen between the Chairman and the Justices in respect of these details, and on them hung the question of taxation. If you spent five or ten lakhs of rupees at once on the drainage or the water-supply works, you must raise the house-rate to 8 or perhaps 10 per cent. and the water-rate likewise ; and the Chairman, as the executive, naturally wished that the works should be pushed on as rapidly as possible, whereas the Justices, seeing that the works, if hurried on, could not be done satisfactorily, made what they considered reasonable allotments for these purposes. He questioned whether it was necessary that the Government should have a voice in these matters of detail, considering that the history of the last twelve years showed that it was not necessary, in the interests of the town, that the Government should have the power of interfering with details.

But even as regards questions of principle, had the Government no power to interfere ? He appealed to the records of the municipality for an answer. Did not Lord Lawrence, when Governor-General of India, interfere when the great question of drainage was under discussion ? Did not Sir Cecil Beadon interfere when the question of water-supply was under discussion ? Did not Lord Mayo and Sir George Campbell interfere in burdening the town with a tramway ? He appealed to the Council with these facts, and asked them to consider whether the Government, under the existing system, had sufficient power of interference or not ?

And there was nothing in the present Bill which altered the position of the Government in that respect from what it was under the existing law. The Government, as the chief controlling authority of the country, had always a right of interfering where the good of the people was at stake, and in that respect the power of the Government could never be curtailed by local legislation.

In reference to the question of representative government for the town, there was one point of great importance. It might be said that the natives were not sufficiently advanced to be trusted with full and complete power. But it should be borne in mind that the natives were not the only residents of the town. There was also a large, important, and influential section of the European community here. The capital of the empire attracted to itself representatives of the most civilized countries of Europe for the purposes of trade and commerce. It was true that many of them came there as birds of passage, and went away after a few years, as soon as they had feathered their nests. But there were many who had an abiding interest in the town; and even those who fled away after a few years' residence, felt an interest in the municipal administration of the town as long as they dwelt there. He asked hon'ble members, who were better acquainted with the European character than he was, whether they, who had tasted the sweets of self-government in their own countries, would consent to take part in a scheme of self-government in which the power of the Government would be held *in terrorem* over them in everything they did or wished to do. He asked whether they would consent to be members of a Corporation in which the Chairman or the Government might treat them as puppets; in which, if they wished to prove useful, they could not find any scope for independence, and in which probably they would consider that they could not work without destroying their own feelings of self-respect. It then came to this, that representatives of the great European communities in Calcutta were not likely to

act as a part of this machinery of self-government, and then the question arose of what use would it be to the town? He could not too strongly impress upon the Council that the Natives of the country had much to learn from the Europeans in the art of government and self-government; that if the people of Calcutta had made any progress in the appreciation of the mode of self-government, it was because they had been long associated with the representatives of the advanced civilization of the West in their own town. Education had been diffused widely enough through towns in the mofussil; but why was it that the people of Calcutta alone were more advanced than other civilized towns in this country? It was simply because there was a large European population residing in it, between whom and the Natives there was frequent interchange of ideas. It was therefore of the utmost importance that this Bill should be so framed as to induce the representatives of the European community to join the Town Corporation, and there to act as the teachers of the people as well as the protectors of their own interests. If, then, the Government thought that it was not prepared to give such a Bill as would place full power in the hands of the representatives of the people, whether European or Native, he would say to them, "Do not go backward; if you cannot progress forward, do not make a retrograde step."

He would conclude by saying that if the Select Committee would consider the provisions of the Bill to which objections had been taken in the several memorials in the spirit in which the principle of the elective system as a principle had been conceded, they would do their work to the satisfaction of the public.

One word more and he had done. The hon'ble mover of the Bill had announced that the Select Committee would be glad to receive delegates from the public bodies from whom memorials had been received, and that if the Justices wished to be represented by counsel, the Select Committee would be prepared to hear them. He would make only one suggestion with reference to

that point. Usually the proceedings of Select Committees were not open to the public; but as representatives of the various public bodies were to be admitted as delegates, and as counsel were to be heard on behalf of the Justices, he hoped that Reporters of the press would also be admitted. The public were deeply interested in the proceedings of the Council in reference to this Bill; and if the sittings of the Select Committee were thrown open to the public who were interested in the matter, it would give greater satisfaction than if the proceedings of the Committee were held with closed doors. He would therefore propose as an amendment or, if he was not in order, he would move a substantive motion, that the meetings of the Select Committee in reference to this Bill should be thrown open to the public and the Reporters of the press.

At a meeting of the Council held on the 18th March 1876, the Bill was further considered.

The HON'BLE BABOO KRISTODAS PAL moved the following resolutions :—

“At the first meeting of the members of the corporation in each year they shall proceed to elect a Chairman, who shall hold office for a year, and shall be eligible for re-election. The Chairman shall preside over all the meetings of the corporation; and all questions which may come before any meeting of the corporation for decision shall be decided by a majority of the members of the corporation present and voting at such meeting; and in all cases of equality of votes the Chairman shall have a second or casting vote. In case of the absence of the Chairman from any meeting, the members present shall choose one of their number to preside, who shall for that meeting have all the powers of the Chairman elected by the corporation. In case of the death, resignation, or disqualification of the Chairman elected by the corporation, it shall be lawful for the Town Council to convene a meeting of the corporation for the purpose of electing a Chairman for the residue of the term for which the Chairman so dead, resigned, or disqualified was originally elected.

The entire executive power and responsibility for the purposes of this Act shall be vested in one Commissioner, who shall be appointed by the local Government, for a term of three years, and shall be eligible for re-appointment : provided that he shall always be removable from office by the Government for his misconduct, or neglect of or incapacity to perform his duty, and shall be removed from office by the Government on the votes of not less than two-thirds of the Commissioners present at a special general meeting of the corporation.

The said Commissioner shall be styled "Municipal Commissioner for the city of Calcutta." He shall receive such allowances out of the municipal fund to be raised under this Act as shall from time to time be fixed by the Government : provided that these allowances shall not be less than rupees two thousand or more than rupees two thousand five hundred a month. He shall not be permitted to hold any other appointment or to follow any other occupation, and shall devote his whole time and attention to the duties of his office. He shall not be eligible to be a member of the corporation ; but he shall have the same right of being present at all meetings of the corporation, and of taking part in the discussions thereat, as any member of the corporation, but he shall not be at liberty to vote upon, or to move any resolution submitted to any such meeting."

He said these sections, which he had copied bodily from the Bombay Municipal Act, were, he conceived, the logical development of the measure which the Council was about to pass. As he had already explained, when the Bill provided only a Government machinery for the municipal administration of the town, the question as to whether the Government should retain the power of appointing and removing the Chairman, and whether the Chairman should also hold the office of Commissioner of Police, was different from what it now appeared to be. Now that the Council had thought fit to decide that the town should be governed by an elective corporation, partial though it was, he thought it was but proper that fair play should be given to that body, and that its executive administration should not be over-weighted with a Government nominee.

The Select Committee had now recommended certain provisions for the working of the municipality, which the Government had been pleased to accept, in the interest of the town and for the

preservation of that influence of the Government over the corporation which it was thought proper it should exercise. Having done that, he did not think it was now necessary that the Government should retain the power of appointing the Chairman of the municipality. The functions of the Chairman of the municipal corporation of Calcutta were two-fold ; firstly, deliberative, and secondly, executive. In his capacity as Chairman of the deliberative assembly he presided over the meetings of the corporation, conducted the proceedings, laid the resolutions before the Commissioners, and did exactly what the Hon'ble the President of this Council did. In his executive capacity he was the chief executive officer of the corporation. He carried out the orders which he as Chairman of the municipality embodied in the statute-book of the corporation. Now he appealed to the Council to consider whether the combination of this two-fold function in the same person was consistent with the satisfactory working of the municipality. He was inclined to think that much of the friction of which they had heard so much now and then was due to this duality of functions vested in the Chairman of the Justices. If the Chairman had been an independent officer, and had no connection whatever with the deliberations of the corporation, except in so far that he should provide information and furnish facts, so as to enable the Commissioners to arrive at a sound decision upon matters placed before them, there would not have been that conflict and friction which had sometimes caused considerable dissatisfaction in the town.

When the Bill was considered in Committee of this Council at its sitting held on the 26th February last, the Hon'ble the President was pleased to remark, with reference to the control claimed by the Government over municipal affairs, that the position was analogous in Bombay. His Honour had remarked —

“ But how about Bombay ? Now Bombay is at least as large as Calcutta ; its population is, I believe, greater than that of Calcutta, and is at least as

public-spirited and as well educated, and at least as well suited for self-government."

He was quite willing to follow the example of Bombay. But how did matters stand in Bombay? He found that in 1872 an Act was passed in Bombay conceding to that town the present system of municipal self-government. That Act provided a body of partly elected and partly nominated Commissioners, and also a Town Council. The Chairman of that body was elected by the Commissioners. The executive authority and responsibility rested with the Municipal Commissioner who was appointed by the Government. And this system had been in operation for the last three years. He had the evidence of the most competent local authority that it had worked fairly. The gentleman to whom he referred was himself the Municipal Commissioner of Bombay not many years ago; he was reputed to be the author of the present constitution, and had the best opportunities of observing its practical working; and he was much obliged to that gentleman for giving him his testimony in favour of the Bombay system, which recognized the distinct responsibility of the Chairman and the Municipal Commissioner in the form ~~are~~ had proposed in the new sections, that was to say, giving the Commissioners the power of electing their own Chairman annually, and to the Government the power to appoint an executive officer answerable for the executive administration of the town. This system had worked satisfactorily; and if it had worked well in Bombay, why should it not work equally well in Calcutta? He saw no reason whatever why it should not.

✕ It would be presumptuous on his part to remind the Council that in those civilized countries where the privilege of the elective franchise was enjoyed, the right of nominating the executive officer who administered the municipality was not claimed by the Government. Of course, the position of India was somewhat peculiar, and the experiment of self-government was also new. But the experience gained in the Presidency of Bombay ought to

be a fair guide to us in Calcutta. If the people of Calcutta did not fall short of their brethren in Bombay in intelligence and public spirit, he did not see why the people of Calcutta should be treated in a different manner from those of Bombay.

Then the proposition he had embodied in these sections contemplated another material change. He meant the separation of the offices of Chairman of the Justices and Commissioner of Police. And here he might inform the Council that he was not aware of any civilized city where the chief of the police was the chief of the Municipality. It was not so in civilized Europe as far as he was aware; he believed it was not so in America; and it was not so even in the capitals of Bombay and Madras. If, then, in the sister capitals of Bombay and Madras it had been found quite practicable to carry on the municipal government without uniting the functions of Chairman of the municipal corporation and Commissioner of Police in one person, he saw no reason whatever for centralizing authority in the hands of one executive officer in this town. The practical effect of this centralization was divided responsibility. It could not be contended that the present Chairman of the Justices, with all his energy and devotedness, could perform to his own satisfaction the multifarious duties which devolved upon him; and he believed that those who knew the working of the Police and of the Municipality of Calcutta would agree with him in thinking that practically the administration of the police was left to the Deputy Commissioner, the Chairman of the Justices exercising control only in rare and exceptional cases. If, then, the Deputy Commissioner of Police was the real responsible officer, by all means centre responsibility in him, but do not divide the responsibility. The duties of Chairman of the Justices were so various and so onerous that they were sufficient to occupy his whole and undivided attention. He was satisfied that with the energy and ability the present Chairman of the Justices possessed, he would have done much more for the town if his mind had been

less fettered with the work of various other departments ; if indeed he could have given all his leisure and all his time to the performance of his legitimate duties as the head of the municipality.

There was also another question of principle involved in the centralization of this authority in the hands of the same person. He did not mean to make any personal reflections, but it was quite possible that the power the head of the municipality might possess and exercise as the head of the police might be used to the detriment of the liberty of the subject. He might confess that his peculiar notion on the subject was that the head of the health department should not be the head of the thief-catching department. Thus, not only on administrative and on what he might call moral and political grounds was the separation of the functions of the Commissioner of Police and Chairman of the Justices in the highest degree desirable, but also on the ground of economy this reform was much needed. He found that the Chairman of the Justices now drew Rs. 3,500 a month; the Vice-Chairman Rs. 1,200, the maximum salary, the present incumbent drawing Rs. 1,000; the Deputy Commissioner of the Police Rs. 1,500, making a total of Rs. 6,200. Suppose we followed the scale of pay prescribed in the Bombay Act, from Rs. 2,000 to Rs. 2,500 for the Municipal Commissioner; and he believed that if a good and efficient officer could be found in Bombay at a salary of Rs. 2,500, surely the Bengal Civil Service, which boasted of many able and efficient officers, would not be found wanting in giving us such an officer. Taking then the pay of the Chairman at the Bombay scale, Rs. 2,500, and the pay of the Commissioner of Police at Rs. 3,000, the same which was formerly given to the Commissioner of Police when the office was distinct from that of Chairman of the municipality, the total came to Rs. 5,500. He submitted that if it were decided to have a separate officer as the Municipal Commissioner for the town of Calcutta and a separate officer as Commissioner of Police, it would not be necessary to entertain another subordinate officer under the Municipal Commissioner who now held the position of Vice-Chairman. In

Bombay a single Commissioner did everything in the executive department; and if the Municipal Commissioner in Calcutta devoted his whole time to the business of the municipality, it would not be necessary to entertain a separate officer as Vice-Chairman. Then, in the same way, if a single individual were charged with the control and administration of the Police, he did not think it would be necessary to entertain a separate officer as Deputy Commissioner. Practically, as he had already observed, the Police administration of the town was carried on by the Deputy Commissioner of Police; and if a single officer could now perform all that was required of him, surely the Commissioner of Police, under the proposed arrangement, with his powers and duties well defined, would be able to administer the Police without requiring the assistance of a Deputy. According to this arrangement, then, there would be a saving of Rs. 700 a month, the Municipal Commissioner being paid Rs. 2,500 and the Commissioner of Police Rs. 3,000: the present expenditure was Rs. 6,200, the proposed expenditure would be Rs. 5,500, giving a saving of Rs. 700.

He hoped he had shown that the changes he recommended were not only desirable in the interests of the municipality, but also in the interest of economy. And if the Council was pleased to accept the principles embodied in these resolutions, it would then be necessary to make the required alterations in the different provisions of the Bill. He had not named any section after which this amendment should come, because he was not sure whether they would be accepted by the Council. But he had felt it his duty to lay the propositions before the Council, and hoped they would receive their best consideration. He submitted that when the Government had had the liberality to concede to the town a measure of self-government, it ought to give it fair play; and he did not for a moment believe that if those concessions were made, it would end as was apprehended in certain quarters, in a *fiasco*. He really believed that what had proved successful in Bombay would, *ceteris paribus*, prove equally successful in Calcutta.

In reply to certain remarks made by the Hon'ble Mr. Bell—

The HON'BLE BABOO KRISTODAS PAL said the hon'ble member who had just spoken had referred to the stringent controlling sections of the Bombay Act. They were sections 40 and 41 of that Act. If the Council would refer to those sections they would find that they gave no power whatever to the Bombay Government to *raise* taxes, as the Calcutta Municipal Bill in its last form did. The Bombay Act of course gave the Government power to provide funds out of the revenues of the Municipality for meeting any charges for works prescribed in the Municipal Act, but in which there might be default, and in so far the provisions recommended by the Select Committee were substantially in accord with it. The provisions in the Calcutta Bill distinctly declared what were the particular works which were made compulsory upon the Municipal Commissioners. They must, for instance, provide funds for the payment of interest upon the loans, and make provision for the formation of a sinking fund ; they must provide for the payment of the police ; they must provide so much a year raised by loan for the drainage works ; they must provide funds for the water-supply. And there was a further provision empowering the Government to appoint a Commission of Enquiry, if the Municipal Commissioners had failed in making adequate provision for the cleaning and conservancy of the town. Therefore, as far as the obligations of the Commissioners were concerned, they had been made sufficiently stringent and sufficiently explicit. And in so far he did not see how, because the Government of Bombay had the power to draw funds from the Bank, whereas the Government of Bengal did not claim that power, but simply declared that the Chairman should carry out the orders of the Government whenever default should be made by the Commissioners in respect of the conservancy of the town, and the Chairman would then be the representative and executant of the will of the Government, there would be a material difference in the position of the two municipalities in that respect.

SETTLEMENT OF DISPUTES REGARDING RENT.

The Hon'ble Mr. Dampier moved at a meeting of the Council held on the 24th of April 1875, that the Bill to provide for enquiry into disputes regarding the rent payable by ryots in certain estates, and to prevent agrarian disturbances, be read in the Council.

The HON'BLE BABOO KRISTODAS PAL said he regretted the necessity which had compelled the Government to bring in this Bill. It was an exceptional measure, but exceptional circumstances required exceptional remedies. Hon'ble members of this Council were aware that for some years past the feeling between the zemindars and ryots in several districts in Bengal had been far from what was desirable and what ought to subsist between them, and in some cases this feeling had found expression in overt acts of disturbance. In 1873 troubles of a serious character broke out in Pubna, and he was afraid that the contagion would have spread to other districts if the common calamity which threatened us in 1874 did not for a moment prevent the spread of that feeling. The zemindars and ryots were then equally anxious for their own existence as it were, and angry feelings consequently gave place to the desire for mutual help and protection. But troubles had again broken out in some of the Eastern districts. His Honour the Lieutenant-Governor, in the minute which had been circulated to members, had called attention to certain facts which established the necessity of a measure of this kind. He had some opportunities of knowing how things were getting on between ryots and zemindars in several districts, and he must say that unless some measures were taken to promote peace and harmony between them, the tranquillity of the country might be endangered, and the Government called upon to take stronger measures than that now proposed. The present law was not sufficient to meet cases of organized combination among the tenantry. The civil court procedure was too dilatory, expensive, and harassing, and it was therefore necessary that

there should be a summary procedure for the settlement of rent disputes. *The present Bill contemplated a summary settlement ; and if it were carried out with care, judgment, and tact, he believed the Government would succeed, as it intended to do, in throwing oil over troubled waters.*

There were, however, some points connected with this Bill which involved, he might say, questions of principle, and to which only he would briefly advert. In the first place this Bill left everything to the discretion of the revenue officer. No principle was laid down on which he was to settle the question of rates of rent. Now, hon'ble members were aware that the whole rent question was a question of rates of rent. Until the rise in the price of produce, which dated, he might say, from the Crimean War, there was little dispute practically between zemindars and ryots. There was not before that active incitement to enhancement of rent which was now in operation. Whatever increase was then made, it was generally amicably settled between zemindars and ryots ; the law courts were seldom appealed to. But since the rise in the price of produce, there had been continually going on a struggle between the landlord and tenant as to the proportion which the rent should bear to the produce of the land. This struggle had been intensified, he might say, by the rent law. Act X of 1859, which was justly regarded as the ryots' charter, had unfortunately introduced an element of uncertainty and indefiniteness as to the proportion which the rent should bear to the produce of the land. Many conflicting decisions had been passed by the High Court upon the subject ; and from the day the Act was passed to this day, the question of the rate of rent remained unsolved. If some simple rules could be laid down which would lead to the determination of a fair and equitable rate of rent, he thought the present rent difficulty would disappear. It was, he admitted, a very difficult and complicated question ; but he might mention that several suggestions had been made by experienced persons on this subject. One was this, that the gross produce of

the land should be divided between the zemindar and the ryot in a definite proportion ; that was to say, three-fourths going to the ryot, and one-fourth to the zemindar as rent. That was one suggestion. If hon'ble members would inquire, they would find that in many districts the proportion of rent received by the zemindar was more than one-fourth of the gross produce, and in some districts it was less ; but he believed it would be equitable and just, both to the zemindar and the ryot, if the proportion were laid down at three-fourths to the ryot and one-fourth to the zemindar.

The next suggestion was this, that the rate of rent should be fixed on the competitive rate prevailing in the village or pergunnah. The competitive rate meant the rate of rent at which the jotedars or farmers or other holders of land let the land to cultivating ryots. There was a competition for land by the cultivating ryots, and the rate they paid was called the competitive rate. Taking that as the rate of rent, the rate for an occupancy ryot might be fixed at such a rate as would secure him the benefit of the tenant right he enjoyed, and this could be done by allowing him a deduction at a certain percentage from the competitive rate so found and determined. This suggestion was based upon the principle followed in the Oude Rent Act. According to that Act the occupancy ryot was liable to pay the rate of rent minus $12\frac{1}{2}$ per cent., which a tenant-at-will paid.

The third suggestion was this, that the average of the price of the produce of the land for the last ten years might be taken with the cost or outgoings which the ryot incurred, and the proportion which the then existing rate of rent bore to the gross value of the produce, and similarly the average price of the produce at the present day with the outgoings, and the proportion the rate of rent bore to the value of the gross produce at the present day ; the difference which might be found between the two rates should be made up by an abatement or enhancement of rent in like proportion. That was to some extent the principle laid down by Mr. Justice Trevor in his judgment in the great rent case.

There might be other suggestions which might meet the difficulty one way or another. But he thought that some definite principle ought to be laid down, upon which the revenue officers should proceed under this Bill in settling disputes as to the rate of rent. He believed it was intended that the Board of Revenue should prescribe rules as to the manner in which the Collector should make inquiries and report their proposals for sanction ; but he did not know whether it was intended that the Board should provide rules also for the guidance of the Collector in the determination of the rate of rent. If that was the object, he thought the more regular course would be to embody such rules in the Bill.

The hon'ble mover had pointed out the advantage of determining or settling disputes in a pergunnah or in portions of a district in one proceeding or decision. He admitted that in cases of measurement such a proceeding would be perhaps desirable ; but he doubted whether, in cases of enhancement of rent, such a proceeding would be always convenient ; for different ryots might have different pleas, and the revenue officer would be bound to inquire into the different pleas so preferred, and it might greatly complicate matters if one proceeding were to govern the cases of all ryots.

Then the Bill as it was framed provided for no appeal either to the Commissioner or to the Board of Revenue, but left it to the Commissioner and the Board to exercise a general power of supervision over the proceedings of the Collector. He would divide rent cases into two classes, viz. enhancement cases and arrear cases. In arrear cases, where the question was simply whether the ryot owed a certain amount as rent, he thought it would not lead to much hardship if the right of appeal were taken away, though there might be cases of a certain description in which even arrear cases might involve questions of right indirectly. But enhancement cases were of a different description ; and as it was proposed that the rate of rent determined by the Collector should have currency for a period of ten years, he thought it was very important and necessary that an appeal should be allowed from the decision of the

revenue officer to the Commissioner and Board of Revenue. Very important questions might be involved in enhancement cases, and much would depend upon the particular idiosyncrasy of the officer who would decide these cases. One officer might be friendly to the zemindar, another might be opposed to the ryots, and *vice versa*; and thus most important interests of zemindars might be imperilled, or a whole body of ryots might be ruined, by the proceedings of the Collector. In such important cases, he thought, an appeal should be allowed to the Commissioner and the Board.

The Bill, he thought, was a move in the right direction; and if it were properly revised and amended, he believed it would be acceptable to all classes in the land.

The Hon'ble Mr. Dampier presented at a meeting of the Council held on the 18th March 1876, the Report of the Select Committee on the Bill to provide for inquiry into disputes regarding the rent payable by ryots in certain estates, and to prevent agrarian disturbances.

THE HON'BLE BABOO KRISTODAS PAL said that as he had recorded a dissent, he thought it his duty to state his reasons for having done so. When the Bill was originally introduced, he thought it his duty to support it, at the same time expressing a hope that the Select Committee would find their way to some provision for the settlement or determination of rates of rents, leaving as little as possible discretion to the Collector on the subject. This question was very carefully discussed in Committee, and he was sorry to say that the majority came to a conclusion which was against the adoption of any principle in the Bill for the determination of rates of rent. He had not seen the report of the Committee until that morning, and therefore could not fully allude to the reasons advanced by them in recording his dissent. But his general opinion on the subject being well known to his colleagues in Committee, he thought it proper to embody it in the dissent he had

recorded. The hon'ble member in charge of the Bill had pointed out that this was a procedure Bill, and did not affect the principles contained in Act X of 1859 for the determination of rates of rents. If the hon'ble member would refer to the history of the rent disputes which had led to the introduction of the present measure, he would find that the indefiniteness of the principles of Act X of 1859 had brought suits for the adjustment of rents to a dead lock, and that it had therefore become necessary for the legislature to step in and propose the present law. If Act X of 1859 had worked satisfactorily; if it had not led to considerable misunderstanding, misconception, and mischief, he did not think there would have been any necessity for introducing the present measure. On the one hand, the ryot did not know what he was liable to pay, and on the other hand the zemindar did not know what he was entitled to receive as rent in consequence of the admitted rise in the value of produce: the result was that both quarrelled and went to the Civil Court for adjudication of their disputes, which in its turn was surrounded with great difficulties, and did not know exactly what to say or lay down. Look to the variety of the decisions passed by the different Civil Courts in the country on the subject, and you would find that they were a series of contradictory decisions, conflicting rulings, and inconclusive conclusions. A full bench of the High Court had laid down a principle for enhancement of rent which both judges and lawyers agreed in holding was simply unworkable, and a better proof of the impracticability of carrying it out could not be afforded than the state of litigation in the country at present on the subject of rent suits. The head of the Government of Bengal had acknowledged this unsatisfactory state of things in the last Administration Report, and pointed out that unless the principles on which rents should be fixed were settled, the present state of things would probably grow from bad to worse. He believed he might state without breach of confidence that the Government were laudably engaged in making investigations from local officers and others competent to advise, with a view to come to some definite

principles for the determination of rates of rent. Now, while public opinion, both official and non-official, seemed to be unanimous in so far that the present law was indefinite and confusing, and therefore unsatisfactory, he asked—was it wise or advisable to refer the Collector back to those very principles in the Act which had produced the present confusion? Would this procedure, he would ask, contribute to the settlement of those disputes which the hon'ble member in charge of the Bill had characterized as a scandal to good government? He questioned the wisdom of this proceeding; and entertaining this opinion, he strongly urged upon his colleagues in Committee the necessity of laying down some fair and equitable principle for the settlement of rates of rent; and if the Council was not prepared to come to an agreement upon the subject, he would recommend that the scope and object of the Bill should be limited to the realization of arrears of rents, the question of fixing the rates of rent being left to the Civil Courts for determination as heretofore.

The object of the Bill, he might observe, was twofold—*firstly* the settlement or adjustment of rents, and *secondly*, the realization of rents. Now, the adjustment of rents could not be effected without settling the rates of rent, but the realization of rents could be facilitated by amending the existing procedure and vesting the Collector with a summary power. There could be no doubt that when the ryots combined and resisted the payment of rent, the zemindar was put to great difficulty and trouble. In fact, when the combination was widespread, the zemindar could not collect his rents, and could not meet the Government revenue without borrowing money. This state of things could not but be deprecated; and he believed that as regards the collection of arrears of rent, if the Bill were made effectual so as to help the zemindar in realizing arrears of rent, the object would be sufficiently attained. It might be a question as to what was or what was not an arrear of rent; that was to say, whether or no the existing rate of rent was disputed by the ryot. But questions of this kind were as likely to arise

before the Civil Court as before the Collector ; and in the same way as the Civil Court decided them, the Collector might decide them in a district proclaimed under the Bill. It was certainly desirable that the rates of rent should be adjusted by the Collector, but there seemed to be so many difficulties in the way, and so much divergence of opinion, that perhaps it would be better as a procedure measure to confine the Bill only to the realization of rent. As the Bill was framed, it might, he was afraid, lead to greater evil than good. He might mention that the reasons which had called for the Bill some six or eight months ago did not now exist, through the wise, discreet, and moderate action of the executive authorities ; that disputes formerly existing between the zemindar and the ryot in some of the eastern districts had been to a considerable extent amicably settled ; and that a better spirit now prevailed than what had prevailed two or three years ago. But it might be said that the fire was only smouldering ; that it might again break out, and who knew how far it might extend ; and that it was therefore necessary to be forearmed. Taking that view of the case, he suggested that the Bill ought to be confined to the particular object of facilitating the realization of arrears of rent, and that the large, difficult, and complicated question of adjustment of rents might be left to be dealt with thereafter by legislation. He was confident that the legislature, under the guidance of the present head of the Government, would be able to come to some satisfactory conclusion as to the principles on which rates of rent should be fixed ; and once the general law was amended, both as to the principles upon which the rent was to be fixed and the facilities to be given for the realization of rent, matters might be left to themselves. On these grounds he still hoped that the question of the adjustment of rent might be left out of the Bill, and that it might be restricted to the realization of arrears of rent only.

He hoped that the Bill would not be hastily proceeded with. It was a most important measure, and ought to be carefully considered. It was true that the Bill had been before the public for

some time. He knew that the landed classes had taken considerable interest in it; they had already expressed their opinions upon it more or less strongly, and it was very desirable that sufficient time should be given to enable them to consider the Bill as amended by the Select Committee.

The Hon'ble Mr. Dampier at a meeting of the Council held on the 8th April 1876, presented the further Report of the Select Committee on the Bill to provide inquiry into disputes regarding the rent payable by ryots in certain estates, and to prevent agrarian disturbances, in order to the settlement of its clauses.

The HON'BLE BABOO KRISTODAS PAL said that since the publication of the rules contained in Section 14a in the Gazette, public attention had been directed to them, and he might state for the information of the Council that his attention had been drawn to some of these rules as not being quite satisfactory. In the first place, it had been pointed out to him that the dictum of the High Court as to the rule of proportion was not quite consistent with the substantive law. When it was admitted on all hands, and when it was, he believed, unanimously agreed upon by this Council, that the rule of proportion was not at all workable, practical men thought that it was useless to encumber the present Act with that rule. It was only one full bench of the High Court which had laid down that rule: another full bench might upset it at any time.

Then with regard to the new rules that were proposed, he might observe that rule (a) was not quite explicit. It was contended that the proviso that the Collector should fix the rent in such a manner as to represent such portion of the existing average gross value of the land with reference to the circumstances of each case was not quite clear. It was urged that there was a confusion of terms in that rule, that was to say, between the rate of rent and the amount of rent. If the rate or the share of the produce were

laid down, then the amount of rent would be regulated according to the circumstances of each case. But how could the rate or share of the gross value of the produce of the land be regulated with reference to the circumstances of each case? Whatever portion of the gross value of the produce the Collector might adjudicate should be decided according to some definite principle; that was to say, the rate being fixed, the amount of rent might be regulated according to the circumstances of each case. But if the rate was to vary according to the circumstances of each case, there would be great uncertainty and confusion; in fact, there would be no uniformity whatever. Not only would two different Collectors act in two different ways, but perhaps the same Collector might determine one rate of rent for one piece of land and another rate for another piece of land, though both pieces of land might be of the same quality and be possessed of the same advantages. Therefore rule (a) was considered indefinite and calculated to lead to confusion.

Rule (b) was believed to be open to great objection, inasmuch as it intensified the evils which the ruling of Sir Barnes Peacock was calculated to produce. If it was difficult to carry out a ruling laid down by such an eminent authority like the late Chief Justice because the outgoings were not easy to be calculated, it would be much more difficult to calculate the net profits of cultivation, and then to divide the profits between the zemindar and the ryot. There were so many conflicting elements in these calculations, and it would be so difficult to bring them to a satisfactory conclusion, that practically it would be impossible to carry out rule (b).

The Collector may, if he think proper so to do, determine the rate of rent payable by such ryot according to any of the following methods :—

(a) By fixing the rent of the ryot so that it shall represent such portion of the existing average gross value of the produce of the land held by him as the Collector shall consider fair and equitable with reference to the circumstances of each case ;

(b) By fixing the rent of the ryot so that it shall represent such portion of the average net profits of the land held by him (after deducting from the average gross annual value of the produce of such land such a sum as may be deemed

With regard to rule (c), it was urged that it was a fair and equitable rule; but unless the allowance to be given to occupancy ryots were fixed by law, it might in the one case lead to injustice to the ryot, and in the other, if the Collector was so inclined, it might lead to injustice to the Zemindar. In fact it left everything in the hands of the Collector, and possibly he might be led by his own sympathies and inclinations to defeat the intentions of the legislature, though acting in perfect good faith. Reference had been made by the Hon'ble President to the Punjab Tenancy Act and the Oude Rent Act. His Honour very fully and lucidly explained the principles upon which those Acts were based; and if those principles were adopted, that was to say, if the deduction to be made from the rent of occupancy ryots were fixed by law, then the difficulty and confusion which were apprehended from the operation of rule (c) would disappear.

He believed that the learned Secretary had received a communication from the British Indian Association upon the subject of these rules, in which all these arguments were fully set forth. He had endeavoured to state to the Council his opinion on these rules. He believed that the Council had come to a decision to lay down some rules for the guidance of the Collector, and it would be much more satisfactory if the Council would make the rules as definite as they possibly could.

proper on account of costs of production and disposal of such produce) as the Collector shall consider fair and equitable with reference to the circumstances of each case;

(c) By taking as the standard of comparison the rates which are generally paid in adjacent places by ryots having no right of occupancy, or in such places as the Collector may select, for lands of a similar description and having similar advantages; and by fixing the rates of rent to be paid by the ryot having a right of occupancy at such percentage below the rent which would be paid for the same lands by ryots having no right of occupancy as the Collector may consider fair and equitable with reference to the circumstances of each case.

MOFUSSIL MUNICIPALITIES.

The Hon'ble Mr. Dampier moved at a meeting of the Council held on the 1st May 1875, that the Bill to amend and consolidate the law relating to the Mofussil Municipalities be read in the Council.

THE HON'BLE BABOO KRISTODAS PAL said, phoenix-like, this Bill had risen from the ashes of the old Bill, which was vetoed by His Excellency the Viceroy for reasons well known to this Council. It appeared from the lucid statement which the hon'ble member had made that he had taken great care in revising it. The old Bill was open to diverse grave objections, and although the hon'ble member in charge of the Bill had removed many of those objections, he was not prepared to say that he had been completely successful. He had cursorily compared the new Bill with the old one, and pointed out some of the provisions which he had eliminated from the present Bill. He would venture to call the attention of the Council to some of the salient points in the present Bill which he thought required modification and amendment. First, as to the creation of municipalities. The hon'ble mover had explained that he had retained the provision of the old Bill defining first class municipalities. That provision was that first class municipalities should comprise a tract of country containing at least 15,000 inhabitants, and the average of the population to the square mile should not be less than 2,000. Now hon'ble members of this Council, who were conversant with the constitution of mofussil municipalities, were doubtless aware that the formation of municipal unions was productive of great hardship and heartburning in the mofussil. A town was taken as the centre of a municipal union, and all outlying villages were added to it as component parts of that union. Now the municipal fund was generally not so rich as to enable the Commissioners to do equal justice to different parts of the municipal union, and the result practically would seem to be that the poorer rate-payers generally paid for the benefit of

the rich. Not to go to a distance, he would invite attention to the constitution of the suburban municipality.

Now, that municipality comprised some of the outlying villages about the Salt Water lakes, fishermen's hamlets, which, from their position, could receive, and did practically receive, very little attention; and yet the inhabitants of those villages were made to pay in equal proportion with the inhabitants of the more favoured parts of the municipality. The same observation applied to the Howrah municipality. Whilst the town of Howrah was lighted with gas, the village of Satguchia, for instance, which was about four miles off, had no great attention paid to its wants. He believed the inhabitants of Bally not many months ago petitioned the Lieutenant-Governor for separation from the Howrah municipality, because that village did not receive adequate attention. Many other cases might be cited in which it was seen that the inhabitants of the outlying villages comprising the municipal union had, compared with their means, paid more and received less than the residents of the more favoured portions of the municipality. On this ground he would suggest that no village or place should be added to a municipal union which had not at least, in the case of first class municipalities, 500 houses, and in the case of second class municipalities which had not 300 houses in it. It was observable that in some cases some villages might not be fit to be associated with a first class municipality, but might well form the centre or part of a second class municipality. But as the section was worded, it left a wide door for the extension of municipal taxation to these comparatively poor villages. It was also worthy of remark that the definition of the word 'place' gave the Government power to include not only a town or suburb, but any village or hamlet in which the majority of the adult male population was chiefly employed in pursuits other than agriculture, however small the size and sparse the population of such village.

Then he came to the constitution of Municipal Boards or Commissions. He observed that this Bill gave power to the

Lieutenant-Governor to extend the elective system to second class municipalities, but not to first class municipalities. It was not for him to discuss here whether the elective system should be indiscriminately introduced into the mofussil, but it struck him that if it was to be introduced at all, it ought to be introduced first into first class municipalities, and then into second class municipalities, if it worked satisfactorily enough in first class municipalities. But section 12 of the Bill said that the Lieutenant-Governor might at any time direct the whole or any number, not being less than two-thirds of the Commissioners, to be appointed under the last preceding section. Now the last preceding section referred to second class municipalities only. [The HON'BLE MR. DAMPIER: That was an oversight.] Well, then, considering it was an oversight, he would not proceed further upon that point.

Then he found that the term of office of Municipal Commissioners was limited to three years. He agreed with the hon'ble mover that it was very desirable to infuse new blood into municipalities, but at the same time he might observe that as an experienced officer, his honourable friend must be well aware that men capable of intelligently exercising the duties enjoined under the Bill were not very plentiful in the mofussil; and that it was therefore not desirable that Municipal Commissioners who had just begun to learn their business, as it were, and to prove themselves useful, should be turned out just when their usefulness would be valued. He would not certainly recommend that they should hold office for life, but he thought it would be advantageous to the Municipality if the term of office were extended to a longer period. He was aware that the Bill gave power to the Lieutenant-Governor to re-appoint those Commissioners who might prove themselves useful; but on this point he was not quite sure whether the Bill would work to the advantage of the municipality. He need not trouble hon'ble members with any remarks as to how the choice of Government in these matters was or would be practically regulated. He believed they were well aware that practically the nomi-

nation of Municipal Commissioners rested with the Magistrates, who selected the members and recommended them to the Government for appointment. Now, by this Bill the Magistrate was appointed *ex officio* Chairman of the municipality; and if any member of the municipality should, by his independence, prove obnoxious to the Magistrate as Chairman, he believed it might be taken as morally certain that that Commissioner was not likely to be recommended for re-appointment: so this clause would work to the positive detriment of the Municipal Board and the tax-payers. In fact, the provisions limiting the appointment of Municipal Commissioners to three years, and giving the power to the Government of re-appointment, would together have a tendency to the suppression of independence in the municipal board. He would therefore recommend that where the elective system would be introduced, it should be left as a matter of course to the electors to re-elect any member they liked. But where the Commissioners would be nominated by the Government, he was of opinion that the elective principle might be conceded in so far that the Municipal Commissioners should have the power of re-electing any retiring member they might think fit. In that case the independence of the members would be secured.

Then he observed that whether the Municipal Commissioners were elected by the rate payers or nominated by the Government, the Magistrate must be *ex officio* Chairman. He thought it would be hardly consistent that where the power of election should be given to the ratepayers, the elected Commissioners should have the right of electing their own Chairman. He must confess that at present the minor Municipalities' Act, which was prepared, he believed, by the hon'ble mover—he meant Act VI of 1868—relating to second class municipalities, was more liberal on this point; for it allowed the Commissioners to elect their own Chairman. Section 36 of Act VI of 1868 said that, subject to the provisions thereafter contained, every Committee should elect one of its members to be Chairman and another to be Vice-Chairman. Now,

if this hon'ble Council thought it proper, and intended to give power to the Commissioners of second class municipalities under Act VI of 1868 to elect their own Chairman and Vice-Chairman, he thought that it would be consistent if they conceded this power also to the first class and second class municipalities under the Bill. He observed that the Vice-Chairman might be elected by the Commissioners; but it was also provided that the Lieutenant-Governor might sanction the election permanently, or for a term of years of a salaried Vice-Chairman, and he did not perceive the consistency of that provision. If any unsalaried Vice-Chairman might be elected by the Commissioners, why should not the salaried Vice-Chairman be similarly elected or appointed without reference to the Lieutenant-Governor. This provision was scarcely consistent with the theory of independence, which he believed this Bill contemplated to secure to the Municipal Commissioners.

Then, again, with regard to the removal of the Commissioners, the power given by section 14 appeared most arbitrary. He admitted that this power existed under the present law; but as the present opportunity was taken to amend the law where it was defective, grave defects, of this kind ought to be corrected. It provided that the Lieutenant-Governor might from time to time accept the resignation of any Commissioner or member of a Ward Committee appointed or elected under this Act, and might remove any such Commissioner or member of a Ward Committee for corruption or continued neglect to attend the meetings of the Commissioners—it was not mentioned for what period—or *otherwise to discharge his duty as* Commissioner or member of a Ward Committee. He thought that the word 'otherwise' was very indefinite, and the defect under notice should be remedied.

He would now turn to the chapter relating to the application of the municipal fund. Now, the first charge on the fund was the maintenance of the municipal police. He believed hon'ble members were aware that a considerable proportion of the municipal

income in the mofussil, particularly in the case of second class municipalities, was appropriated to the payment of the police. This was a standing subject of complaint, and he wished some provision was made to limit the percentage of expenditure for municipal police. If a comparison were made between the sums paid for police and the expenditure for legitimate municipal purposes, he believed it would be found that the bulk of the municipal income in second class municipalities went towards the support of the police. Then he found in section 49 that the Municipal Commissioners, with the sanction of the Lieutenant-Governor, might apply the municipal fund to the construction, repair, and maintenance of roads, wharves, embankments, channels, drains, bridges, and tanks. He did not believe it was intended that that provision of the Bill would be carried out to the letter. But it struck him that, by inserting that clause, some of the obligations which now rested on the provincial and local funds of the Government might be transferred to the municipal fund. Now, as to the construction of embankments, wharves, bridges, or channels, he did not think those were legitimate subjects of expenditure for a local municipal fund. Then clause 3 of the same section was also very comprehensive : it provided for the construction of "other works of public utility calculated to promote the health, comfort, or convenience of the inhabitants." The word 'comfort' might be construed in any way the Municipal Commissioners might like, and thus divert the municipal fund to purposes which were not contemplated by this Bill. Music, for instance, might be considered a subject which came within the meaning of this provision.

Then he noticed that a system of municipal federation was contemplated by section 50, under which a municipality might be allowed to contribute to works executed by a neighbouring municipality on the principle that it would benefit the contributing municipality. Now, if this principle were recognized in the case of the Suburban municipality, all the funds of that municipality might be claimed by the Calcutta municipality. The drainage and water-

supply of Calcutta had greatly and sensibly contributed to the sanitary improvement of the suburbs. On the same principle the Port Commissioners might ask the Calcutta municipality to contribute to their fund, because the works executed by the Port Commissioners had greatly tended to the comfort of the inhabitants of the town. He thought a municipality should be considered as a distinct unit, and that all works executed by it should be constructed and maintained from its own fund. In these days of decentralization, he did not understand on what principle such a scheme of municipal federation was justified.

Whilst referring to this chapter, he might refer to section 28, which provided that the Government might make over to a municipality hospitals, dispensaries, schools, rest-houses, markets, tanks, and wells which might be found within the municipality. That meant that the obligation of maintaining such institutions might be thrown upon the municipality. Of course it would be discretionary with the Government and the Commissioners to enter into such an arrangement, but he thought that the provision might be worked to the detriment of municipalities; for it was notorious that the funds of mofussil municipalities were very limited, and it was not therefore just to multiply their obligations. Then he observed that not only were the Commissioners required to maintain their own establishment, but also to maintain the separate establishments for municipal purposes entertained in the offices of the Magistrate and the Commissioner of the division. On that principal the Government of Bengal might as well call upon municipal bodies throughout the country to contribute to the maintenance of the establishment now employed in the Bengal Secretariat for supervising municipal work. The superintendence of municipal administration being a part of the duties of the Magistrate and the Commissioner, it ought to be done by the general establishment of their respective offices, and he did not think any contribution should be made from the municipal funds. He could judge from the Bill, it appeared that the

establishment and police would absorb a considerable portion of municipal income.

Then he came to municipal taxation. The hon'ble member had explained that the Bill did not contemplate an increase of municipal taxation. The tax upon carriages and animals was one to which, on principle, he did not object, as it was a tax upon luxury, and was intended to be imposed upon that class of tax-payers who would be best able to bear it. He thought, however, that it would be but proper and just that this tax should be confined to first class municipalities. It would, he believed, be conceded that there was no room for raising such a tax in second class municipalities. The same remarks would apply to the fee upon the registration of carts. He did not think the hon'ble mover intended that carts in rural towns should be taxed; they were so few and far between. He had a decided objection to the levy of tolls on roads. It would be perfectly proper to levy tolls on ferries, because they could not be otherwise maintained. It was true that this tax might be imposed at the discretion of the Municipal Commissioners, but he did not think it desirable that such discretion should be given to the Commissioners. As a rule, tolls were not levied now by municipalities, except where ferry funds were applied to the construction of roads. He had received many complaints from persons who had been victims of this system of taxation. He knew a case which had been carried up to the High Court from Howrah. When the Road Cess Bill was before the Council, Mr. Leonard, who was then Secretary to the Government of Bengal in the Public Works Department, wrote an able minute pointing out the objection to tolls on roads, and that was assigned as one of the reasons for the imposition of the road cess. He hoped the hon'ble member would see the propriety of omitting the provisions regarding tolls upon roads. The collection of these tolls caused great annoyance, oppression, and hardship, particularly to the poorer classes, who had no means of getting proper redress.

Then, with regard to municipal regulations, he observed that the hon'ble member had made no distinction between first and second class municipalities. If he would kindly refer to his own Act VI of 1868, he would find that he had therein made considerable distinction with regard to conservancy regulations which ought to apply to second class municipalities covered by that Act.

Then he observed that the Bill authorized the Municipal Commissioners to establish municipal markets. Now, considering that the funds of mofussil municipalities were very limited, he thought a municipal market ought to be the last object to which those funds should be applied. The law gave ample power for the regulation and improvement of existing markets ; and if the sanitary improvement of private markets could be secured by means of the proper enforcement of the conservancy regulations laid down in the Bill, he did not think it would be desirable to authorize Municipal Commissioners to apply any portion of their funds to the establishment of markets as a speculation, and for competition with private enterprise. He must say, with all deference, that some of the mofussil Magistrates had very queer notions about markets. He heard the other day that a Magistrate wanted to establish a free market out of the municipal funds, and that the private proprietor of a market would suffer a loss of Rs. 500 a year because the Magistrate insisted upon opening a rival free market. With the extensive powers which this Bill would give to Magistrates, he did not know to what extent municipal funds would be diverted to the injury of proprietors of private markets. He would therefore simply confine the provisions of the Bill in this respect to the regulation and sanitary improvement of private markets.

Then it would appear that under section 204 all the proceedings other than judicial proceedings of the Commissioner or of the Magistrate of the district, except as therein specially provided, should be subject to the control of the Commissioner of the division. Now this provision was not consistent with the theory upon which the Bill had been framed, viz. the propriety of giving the

people a full control over the administration of their local affairs by the appointment of Municipal Commissioners. He readily allowed that there ought to be some restriction imposed upon the discretion of the Municipal Commissioners in laying out large sums of money upon works of permanent utility, but as a rule he thought the Municipal Commissioners ought not to be fettered by the supervising control of the Divisional Commissioners. In the case of the Calcutta Municipality, works involving sums of more than Rs. 50,000 had to be sanctioned by the Lieutenant-Governor; in the same way a money limit should be prescribed in matters of that kind for mofussil municipalities. But he thought the Commissioner of the division should not be allowed to exercise control over all proceedings of municipal corporations.

With regard to the last section to which the hon'ble member had referred, which rendered it compulsory upon the Commissioners to maintain roads constructed by the Road Cess Committee so far as they were within municipal limits, he had simply to observe that the Municipal Commissioners ought to be allowed a voice in the construction of these roads. He admitted that when a district road passed through a municipality, the Commissioners should maintain the line of road passing through it, but at the same time they ought to be consulted before that line of road was laid down.

Lastly, he came to the bye-laws. The power given to the Commissioners to frame bye-laws was really very great. In fact, it comprised no less than fifteen subjects, and some of these referred to police matters which did not properly come within the cognizance of the Commissioners; and the powers given were so wide and comprehensive, that practically if these powers were exercised the Commissioners would be vested with the functions of this Council in very many matters. He would not, however, dwell upon these provisions in detail, which might be fitly considered in Select Committee.

COURT OF WARDS.

The Hon'ble Mr. Schatch moved at a meeting of the Council held on the 18th November 1876, that the Bill to amend the Court of Wards' Act, 1870, be read in the Council.

The HON'BLE BABOO KRISTODAS PAL said, while assenting to the principle of the Bill which the hon'ble member had introduced, he thought it right to mention that he wished that the scope of the amendments had gone farther than was aimed at in the Bill. The first point which struck him was a provision in section 2, which related to the disqualification of female proprietors. That was of course not a new provision; it was contained in Regulation X of 1793, the first regulation on the subject of the management of wards' estates. That regulation made a distinction between male and female proprietors of revenue-paying estates, and that law had come down to them from generation to generation. But he thought that, when the Government considered it desirable to amend some of the provisions of the existing law, the present opportunity might fitly be taken to revise that portion of the law which referred to the disqualification of female proprietors of estates, who were absolutely declared not competent for the management of their estates. There were good reasons for the provision in the Regulation of 1793, for it was then necessary to exercise a vigilant eye on the management of estates by female proprietors for the protection of the revenue. But the changes which had taken place within the last eighty years were such as no longer to cause anxiety to the Government for the security of the revenue, and it was therefore well worthy of consideration whether the time had not arrived for doing away with the invidious distinction made between male and female proprietors in the management of estates. The Hindu law made no distinction of sex in the management of estates; and as the Wards' Act declared only those male proprietors disqualified who might be minors, or who might be of unsound mind or otherwise incapable of managing

their affairs, owing to any natural or acquired defects, he thought the same law ought to apply to female proprietors. If inquiries were made, it would be found that in many cases male proprietors were as incompetent to manage estates as female proprietors without the assistance of competent managers. But the Legislature had not thought fit to interfere with the exercise of the proprietary right on the part of male proprietors otherwise considered capable of managing their affairs. It was true that the Court of Wards did not always exercise the power with which the law had invested it in the case of female proprietors ; but cases had come to his knowledge in which even a will had been set aside because the widow of the testator was considered by the Court of Wards not competent to manage the estate. Suppose that rule were generally applied, what would be the result? Take the case of that enlightened and noble lady, Maharanee Surnomoye, whose beneficence fell in fertilizing showers upon the land. He would appeal to the Council to say whether that virtuous and philanthropic lady would have been able to manage her vast estates without the assistance of her able, skilful, and enlightened manager Baboo Rajiblochun Rai, Rai Bahadoor. Similar cases might be mentioned of female proprietors of estates who were respected by their tenantry for their goodness, liberality, and charity, but the successful management of whose estates was chiefly due to their managers. Now, if a proper person was selected for the management of an estate, it did not matter whether the proprietor was a male or a female, for the estate was generally well managed. And we had seen in many cases that female proprietors did exercise their discretion properly in the selection of managers, and the result in such cases had been generally successful and satisfactory. That being the case, he would invite the Council to consider whether the old provision disqualifying female proprietors without any valid reasons was a sound one.

The next point which he wished to notice was the clause about adoption. Now, to his mind that clause ran counter to a substan-

tive law of the Supreme Legislature—he meant the Indian Majority Act. The provision in this Bill declared that no adoption by a ward should be valid without the consent of the Lieutenant-Governor. Now, the Majority Act IX of 1875 provided—

“Nothing herein contained shall affect the capacity of any person to act in the following matters, namely, marriage, dower, divorce, and adoption.”

So that the Hindu law, as regards adoption, was left intact by that Act of the Supreme Legislature. The hon'ble member in charge of the Bill had thought fit to change the period of majority under the Court of Wards' Act in accordance with the provisions of the Majority Act, and he thought it would be right also to adapt the adoption clause to the substantive provisions of the Majority Act. He had gone over the prior regulations relating to the Court of Wards, and he did not see any section which required that adoption by a ward should not be considered valid without the consent of the Government. [THE ADVOCATE-GENERAL.—The old regulations required that the adoption should have the confirmation of the Board of Revenue.] But even if they did, it was inconsistent with the Hindu law; and as the Majority Act declared the right of the Hindu to adopt without the interference of any executive authority, he left it to the Council to consider whether the section should be retained as it stood. [THE ADVOCATE-GENERAL.—It had been held, both here and in England, that even an infant could adopt: the question of adoption was wholly independent of the question of majority.] He was fully alive to that, but the Hindu law did not require that an adoption to be valid should have the consent of any executive authority. It was for the civil court to decide in case of dispute whether an adoption was valid or not.

Then he came to section 3 as amended in the Bill. It provided that “the Lieutenant-Governor might at any time declare any manager to be no longer subordinate to the Collector, and might order him to be directly subordinate to the Court or to the Board of Revenue.” The hon'ble member in charge of the Bill was in the best position to say whether a manager should be

independent of the Collector ; but he submitted that no one was better qualified to exercise due control over the manager than the Collector, and he therefore doubted whether it would be a move in the right direction to remove the manager from the control of the Collector even in exceptional cases.

He next came to section 6, which sought to legalize the practice already in vogue, he believed, of the payment of the cost of the superintendence of wards' estates under the charge of the Court of Wards. He fully subscribed to the principle contained in this provision, but he could not understand why the salary of the Deputy Commissioner of Wards' Estates in Behar was included in the list of charges. The Collector, the Commissioner, and the Board, each in their own spheres, exercised control over the affairs of wards' estates, and it was not proposed that they should be paid out of the funds of those estates. The Deputy Commissioner of Wards' Estates in Behar, he believed, occupied the same position as the Collector. It might be that he devoted his whole time to the affairs of wards' estates, but surely some arrangement might be made to relieve him, and the District Collectors in Behar might be required to exercise the same functions in regard to wards' estates in that province which the Collectors in the districts of Bengal performed without detriment to their other duties. One thing should be borne in mind, that the Local Government had lately divided the large district of Tirhoot into two districts, which greatly facilitated work. There were now two Collectors available for work which used to be done before by one. Then again the Durbhunga estate, as the largest wards' estate, was managed by a highly paid establishment, and the work of the Collector with regard to that estate could not be very heavy. So, all things considered, he did not know whether it would be necessary to entertain a special officer as Deputy Commissioner of Wards' Estates in Behar. It struck him that when the Collectors in Bengal were not paid, and it was not proposed to pay them, out of wards' estates for the management of those estates, it would not be right and consistent

to pay a special officer in Behar out of those estates for similar work.

The hon'ble member in charge of the Bill proposed a new provision for the consideration of the Select Committee, namely, the advance of money from the funds of one ward's estate to another on mortgage. This was a very important provision, and involved many knotty points, and he hoped the Legislature would weigh well the proposition before it gave assent to it. Ordinarily a mortgage not unfrequently led to litigation, and when a proprietor acted on his own discretion he took upon himself the consequences of his own act. But the Court of Wards had only a fiduciary interest in the estate, and he did not think it would be right and proper if the Court lent money on a security which might thereafter lead to dispute, litigation, and perhaps loss. This point, he believed, was considered by the Government not long ago, and so far as he was aware, the landed interests were not in favour of the innovation proposed.

He had one suggestion to make with reference to this Bill. Hon'ble members were aware that under a recent resolution of the Government the funds of wards' estates were applicable to the improvement of those estates. But there was no limit as to the amount which might be so laid out. He believed the Government had assigned a limit of from three to five per cent. to outlay from the revenues of khas mehals for improvements. Following that principle, he would recommend that a percentage should be fixed for the outlay of funds from wards' estates for improvements. Otherwise the discretion which was now left to the manager and the Collector might be, and was, he was informed, sometimes abused, and a ward when he attained majority might find his estate considerably hampered for the execution and maintenance of improvements which might not all be needed.

The Hon'ble Mr. Schaleh moved at a meeting of the Council held on the 31st March 1877, that the report of the Select Committee on the Bill to amend the Court of Wards' Act, 1870, be taken into consideration in order to the settlement of the clauses of the Bill, and that the clauses of the Bill, be considered for settlement in the form recommended by the Select Committee.

The HON'BLE BABOO KRISTODAS PAL moved the substitution of the word "five" for "ten" in line 16 of section 53. He said the history of this proposal was this. When the original Bill was referred to the Select Committee, it was considered that some limitation ought to be put on the power of the Court of Wards to expend money on improvements. Facts came to the notice of some members of the committee that money had in some instances been wasted in the name of improvement. It was therefore deemed desirable to limit the power of the Court of Wards to expend money on improvements, and the limit the Committee proposed was five per cent. on the net profits of the estate. When the Bill was recommitted the question was again discussed, and the majority were of opinion that the percentage should be increased to ten per cent., and that greater latitude should be given to the Court of Wards in expending money for improvements. To the second part of the new provision he did not object. As the Bill originally stood, the power of the Court was greatly circumscribed. The wording of the original section was as follows :—

"Provided that the amount so expended shall not exceed five per centum of the said surplus, unless in the opinion of the Court, subject to the express sanction of the Board and the Lieutenant-Governor, it is *absolutely necessary*, for the protection of the estate, to expend an amount exceeding such percentage."

So that unless the Board and the Lieutenant-Governor were satisfied that it was absolutely necessary for the protection of the estate,—for instance, in the case of a famine, flood, or some such extraordinary calamity,—when it might be deemed necessary to expend more than five per cent. for the protection of the estate,—the

Court was not authorized to exceed the five per cent. limit. But as the section now stood, it greatly extended the powers of the Court. It enacted—

“Provided that the amount so expended shall not exceed ten per centum of the said surplus, unless in the opinion of the Court, subject to the express sanction of the Board and the Lieutenant-Governor, *it is desirable, for the protection and in the interest of the estate*, to expend an amount exceeding such percentage.”

By comparing the words of the two sections, it would be seen that the discretion of the Court of Wards had been materially and widely extended. Such being the case, he did not see that there was any good reason for raising the limit from five to ten per cent. in ordinary cases. In extraordinary cases, in which the Board and the Lieutenant-Governor might think it desirable to spend the surplus on schemes of substantial improvement, it would be in the power of the Court of Wards to obtain the necessary sanction; but ordinarily he thought that an expenditure of five per cent. of the profits should be sufficient for ordinary improvement. As the phrase now went, there was an “oscillation” of opinion in Select Committee on the subject, and he being in the minority, had felt it his duty to move this amendment in Council. He had heard nothing which satisfied him that the limit of five per cent. would not be sufficient for ordinary purposes. He found that the Government had fixed a limit of three per cent. only for the improvement of Government estates, or estates which were under the *khas* management of Government. Now, if a three per cent. improvement fund was deemed by the Government to be sufficient for ordinary improvements in Government estates, surely five per cent. ought not to be considered insufficient for purposes of ordinary improvements in private estates which came under the management of the Court of Wards. It was worthy of note that the three per cent. fund in Government estates was applicable in this wise—half of the three per cent. was applicable to the improvement of roads, one-third to primary education, and one-sixth to miscellaneous local improvements. Every ward's estate paid the road cess, and so far as the

road cess was regarded as an outlay for the benefit of the estate, that object was met by the payment of the road cess. As regards contributions to schools, it was not intended that such contributions should be made from the ten per cent. fund proposed in the Bill. It was proposed solely for material improvements. For the support of schools, contributions might be made from the general funds of the estate. It might be urged that in the cases of Government and private estates there was one point of material difference, which was that the Government gave three per cent. on the gross receipts of Government estates, whereas it was proposed in the Bill to allow ten per cent. on the net receipts, which certainly was a point of difference. But he submitted that the difference was, rather visionary than real ; for the revenue the Government received in khas estates constituted the whole of the assets *minus* charges of collection, whereas the assets of the wards' estate consisted in the residue left after payment of the Government revenue or rent to the superior landlord *minus* the cost of collection. So, practically, the assessment for the improvement fund was made upon the net receipts of estates of both classes.

Further, it was observable that large works of improvement such as embankments or extensive drainage works, might be constructed without recourse to the ten per cent. fund. He found that under section 4, clause 1, " the Collector may cause any embankment which connects public embankments, or forms by junction with them part of a line of embankments, or any embankment or water-course which is necessary for the protection or drainage of the neighbouring country, to be taken charge of and maintained by officers of Government," so that new as well as old works might be maintained at the expense of private estates when the works were not legitimately chargeable to Government. That being the case, if it was necessary to construct some gigantic work for the protection of the estate, it would fall under the provisions of the Embankment Act, and the estate would be liable to bear the cost. There might, however, be small works, for the drainage or protection of

the estate from floods, which were not contemplated by the Embankment Act, and for which it might be desirable to spend money from the Wards' Estates Fund. For such works it was certainly necessary to provide funds, and he thought that ordinarily five per cent. of the surplus ought to be sufficient : in extraordinary cases, as he had observed, the Bill gave ample discretion to the Government to expend money exceeding that limit.

The laxity of the system which obtained at present in regard to the expenditure of money on improvements in wards' estates was, he thought, best illustrated in the case of the Durbhunga estate. He was reading some papers lately connected with the management of that estate, and he found from a Minute recorded by Sir George Campbell in 1871 that in that year the estate had a balance of Rs. 43,00,000. Sir George Campbell remarked that, after providing for all expenditure and for all legitimate works of improvement, the estate might be expected to save about Rs. 10,00,000 a year, and that at the end of the minority of the Raja there would be a probable balance of a million of money. But how did the facts stand now? We were now in the beginning of 1877. He found in the last number of the *Calcutta Gazette* that, so far from a million of money accruing by this time, the balance which stood in 1871 at Rs. 43,00,000, had dwindled down to Rs. 18,00,000. Now what were the resources of this estate? He found that the current demand of the estate annually amounted to Rs. 21,20,000; that the expenses of management came to Rs. 2,74,000, and the disbursements on all accounts last year amounted to Rs. 24,98,000, though the collections did not exceed Rs. 16,38,000. He was well aware that the famine of 1873-74 made a deep hole in the balance sheet of this estate; that it entailed a large expenditure of money upon works of utility for the maintenance of the ryots; that it led to large remissions of rent, and also to charitable relief on a large scale. But making every allowance for this large extra expenditure, he could not persuade himself to believe that in the system on which the estate had

been managed, due regard had been paid to the fiduciary nature of the charge devolving upon the Court of Wards. When Sir George Campbell remarked that ordinarily, after making every provision for the maintenance of the estate and necessary improvements, there would be left a balance of Rs. 10,00,000 a year, it should be remembered that he allowed nearly Rs. 10,00,000 annually for expenses of management and improvements. The expenses of management last year amounted to Rs. 2,74,000, and for the maintenance of the ward, improvements, and other legitimate charges there was left, according to Sir George Campbell's calculations, a balance of more than Rs. 8,00,000. But we found that the greater part of the old balance had disappeared and no new balance had accrued: the whole balance, after the management by the Court of Wards for so many years of the princely resources of the estate, amounted to Rs. 18,00,000. In the resolution from which he had quoted the above figures His Honour the Lieutenant-Governor had been pleased to remark as follows :—

“ In the Durbhunga estate remissions of rent have been unavoidable, but the expenditure in the estate was larger than seems to have been warranted, especially upon public works, and the expenses of management bear a very high proportion to the amount of the current demand of rent due to the estate. Upon the whole, the Lieutenant-Governor, in reviewing the administration of these large estates during the year, while he fully admits the zeal and trouble that have been devoted by the Revenue authorities to improving the estates and benefiting the condition of the tenantry, cannot resist the impression that the facts disclosed in the Board's report evince the necessity of a much more careful control over expenditure, and, in some cases, of greater vigilance in the realization of old arrears of rent.”

He fully subscribed to that opinion, and he thought that sufficient reasons existed why this Council should limit the powers of the Court of Wards for the expenditure of money on improvements.

He was indebted to the courtesy of the hon'ble mover of the Bill for a copy of the report of the Board of Revenue on the management of wards' and attached estates in 1874-75, in which a

history of all the estates under the management of the Court of Wards had been given in full detail. He found from this report that the normal condition of the estates was indebtedness ; but, thanks to the management of the Court of Wards and the supervision of the Board of Revenue, the debts had been in most cases liquidated, and that, when an estate had been restored to its owner at the end of his minority, it had generally been restored in a prosperous condition. All this he gratefully acknowledged, and he thought the landed proprietary in Bengal were indebted to the Government for the protection and benefit which they derived under the management of the Court of Wards generally. But the principles upon which the management of estates had hitherto been carried on had lately been departed from, and considerable abuse had consequently ensued, and that was the reason which induced him to ask the Council to put some limit on the power of the Court of Wards to spend money on improvements. About four years ago, he believed, a distinguished predecessor of His Honour the President had actually recommended that model farms should be established and maintained at the expense of wards' estates, and he believed some farms were established under his orders, which ultimately proved to be huge failures. Now, when these farms were established, they were doubtless established under the impression that they would prove beneficial to the estate, inasmuch as the tenantry of the estate would learn improved systems of cultivation and improved methods of rearing cattle. But the experiment failed, and the loss had to be borne by the ward's estate. Now it was not unlikely that with the best of motives works of so-called improvement might be undertaken which after all might prove in the end to be wild speculations. How many works had not been launched by the State at different times with the best prospects of success, but which ultimately proved to be serious burdens, and for the continuance of which the Government had been driven to the necessity of raising fresh taxation ? What was true of the State was equally true of

the ward's estate, and the result of experimental improvements with other people's money would be a heavy loss to the innocent proprietor, who would not have even for his consolation the pleasure of spending his own money for the gratification of his own wishes.

All things considered, he thought the Council could not be too cautious in authorizing the Court of Wards to spend money on improvements. Improvements should certainly be made where they were absolutely necessary, but within proper and reasonable bounds; and if the Government was satisfied with a three per cent. improvement fund in their own estates, he did not see why five per cent. should not be sufficient for wards' estates.

In all extraordinary cases, as he had already remarked, the Government and the Court of Wards would have ample discretion for the construction of well-assured projects of improvement.

The HON'BLE BAROO KRISTODAS PAL said the next amendment he had to move in section 53 was the insertion of the following words at the end of the section:—

"If the ward is a widow above the age of twenty-one years, entitled to the estate for her life only by virtue of the will of her deceased husband or otherwise, such surplus, after providing for the expenditure specified in the preceding section, shall, if no such debts as aforesaid be outstanding, be paid to such ward."

In reference to this clause also he had to repeat that there had been an oscillation of opinion in Select Committee. This clause had been inserted in the first amended Bill at his instance; but when the Bill was referred back to the Select Committee, the majority of the members were of opinion that the clause should be left out. His object in proposing this clause was that in some cases a testator left his property by will to his widow for her life, and because the female was deemed incompetent for the management of the estate, the Court of Wards took over the management and deprived her of the benefit accruing under the will by limiting her monthly allowance to some fixed sum, and carrying the profits to

the credit of the estate. The object of the Court of Wards in a matter like this was certainly to benefit the estate. But he submitted that the first duty of the Court of Wards was to carry out the intentions or directions of the testator. If it were the will and desire of the testator that his widow should enjoy the full benefit of the surplus proceeds of the estate, he did not think, whether in law or in equity, that the Court of Wards were competent to defeat the object of the testator and deprive the widow of the full benefit of the profits of the estate. It might be said that the widow might waste the profits which might be derived from the good and economic management of the estate by the Court of Wards. Well, that might be so. The widow might not properly use the profits which might come to her; but were there not many other cases in every day life in which such waste was committed by persons who came to the possession of large estates, and the courts could not ordinarily interfere with the action of persons who thus profligately wasted their property? Who could say that a ward who was a minor now under the Court might not, when he came of age, waste the estate which the Court of Wards, after considerable trouble and economy, had accumulated for the benefit of the ward? But in the cases to which his amendment would apply, the estate could not be wasted; it was only the profits, which were the widow's by the will of her husband, that she could waste if she were so minded: the estate remained in the hands of the Court of Wards. If a minor came of age, he might waste his estate and reduce himself to beggary; whereas a widow, even if she were a profligate character, could not waste the estate, but only the profits derived from the property. On the other hand, if she were a sister of charity, if she were a friend to the cause of humanity, if she were religious and benevolent, how much good might she not effect by a proper use of her money? For instance, who had not heard how the Maharanee Surnomoyee or Maharanee Surrutsoondree had been using the resources of their vast estates for the benefit of humanity and the improvement of the country; and who knew whether there might

not be other widows who might not in the same way employ their means for the benefit of their neighbours or their countrymen ?

Then he was answered in Select Committee that if, under the law, a widow had an absolute right to the profits which her husband had bequeathed to her under a will, she could assert her right in a court of justice. But he would ask, why should the Legislature step in and sanction a course of action by the Court of Wards which tended to defeat a right which the widow possessed under the ordinary law of the land ?

He thought it would be admitted that it did not behove a great and powerful Government like ours to drive helpless widows to litigation for the assertion of their lawful and just rights. Just consider the position of the widow with life interest in an estate under the Court of Wards. In the *first* place, the Court of Wards took over the management of the estate, and the widow was deprived of all resources to carry on litigation ; in the *second* place, if she were to sue, she must sue through the Court of Wards, because she had become a ward ; and *thirdly*, when the suit was decided, when her right was admitted, who, after all, had to pay the expenses of litigation ? It was the estate, or, in other words, it was the widow ; for during her life she was the legitimate owner of the profits of the estate. From whatever point of view the question was looked at, it would be seen that it would be but bare justice that the Court of Wards should give to the widow what legitimately belonged to her under the will of her husband. He did not say that they should in any way remove the hands of the Court of Wards from the management and improvement of the estate, because the widow had only a life interest in it. Let all legitimate expenses be deducted from the proceeds of the estate, and whatever balance was left, let it be made over to her who had the greatest claim to it.

A notable case occurred lately in Chittagong, and made some noise at the time. It was the well-known case of Nyantara. He found, from a resolution of the Government in 1874, that this Chittagong case came under the management of the Court of Wards in

1873. It appeared that, under a will executed by the husband of Nyantara, she was left the entire profits of the estate during her life. The Board of Revenue in their report wrote as follows :—

“ On the death of the late Baboo Grish Chunder Rai, one of the richest zemindars in the district of Chittagong, his estate devolved by a will upon his wife Srimati Nyantara. Shortly after her succession to the property, the Collector, having learnt that the people about her were mismanaging the estate and taking advantage of her incompetency, deputed a Deputy Collector to inquire into the matter and report. The Deputy Collector reported her to be incompetent to manage her property ; it was therefore first attached early in 1873, and was subsequently brought under the Court's management under Act IV (B. C.) of 1870. The ward is 27 years old. ”

It would be seen from the resolution of the Government of Bengal that, after paying the Government revenue, and also the rent payable to the superior landlord, the receipts of the estate did not amount to more than Rs. 18,000 per annum. The cost of management last year came to about Rs. 2,781 ; the sum of Rs. 500 was allowed for the education of the Ward's adopted son, and Rs. 1,000 for the maintenance of her mother-in-law, leaving a surplus of Rs. 13,719. Out of this sum the widow, who had a life interest in the estate, was given an allowance of Rs. 2,129 per annum, or Rs. 177 per mensem.

But this was not all. It would be seen that while the widow had been deprived of her life interest, and had been made to be content with an allowance of Rs. 177 only, there was a balance of not more than Rs. 4,700 in favour of the estate in hand. After three years' management the surplus amounted to Rs. 11,500 per annum, and the whole of that sum had been spent doubtless for the benefit of the estate, though the accounts given in the resolution were not quite clear, but certainly to the deprivation of the just right of the legal heir. But let that pass. What appeared to be most amazing was that, while the widow had a life interest in the estate, and there were large balances available, her applications for extra religious expenses and doctor's fees were not allowed. She was told that the “ expense must be met from the fixed budget al-

lowance." He submitted that in matters of this kind the Court of Wards should not be allowed any discretion. Law and justice required that what belonged to the widow in right ought to be made over to her in fact.

Lastly, it was urged in Select Committee that it was not the function of the Legislature to legislate for a matter of that kind ; that it was not quite germane to the Bill. Now, if it was the object of this Bill to lay down instructions and directions for the guidance and control of the Court of Wards, surely it would not be foreign to its purpose to declare that the Court should give effect to the wishes of a testator when an estate so bequeathed would come under its management. Indeed, if it was considered necessary and reasonable that instructions should be given to the Court as to how to apply the funds of the estate, how to meet liabilities, how to expend the surplus, and so forth, it was quite within the scope of legislation that instructions should likewise be given to it to make over to the widow of the testator the profits of the estate which, under the will of her husband, she had a right to receive. He therefore moved that the words, notice of which he had given, be incorporated with section 53.

PROVINCIAL PUBLIC WORKS CESS.

The Hon'ble Mr. Reynolds moved at a meeting of the Council held on the 7th April 1877, that the Bill to provide for the levy of a cess for the construction and maintenance of provincial public works be read in the Council.

The HON'BLE BABOO KRISTODAS PAL said that there was no member of the Council who could have heard His Honour the President's statement last week without deeply feeling the responsibility of his position, or wishing to offer the Lieutenant-Governor his hearty co-operation and support in meeting the difficulties which frowned upon His Honour at the very threshold of his career

as the responsible ruler of Bengal. He was well aware that whatever might be said here as to the reasons on which it had been decided to throw the burden of additional taxation on Bengal, or as to the principles of the new taxation, Bills now before this Council would not alter the decision of the Government of India; but he hoped His Honour would not deny to hon'ble members the right, which the constitution of the Council conferred on them, to examine for themselves those reasons and principles. In discussing a measure of taxation in this Council hon'ble members laboured under great disadvantages, as they had not the requisite detailed information regarding the financial operations of Government beyond what was contained in published reports, returns, and statements; but with the information thus available he ventured to offer a few remarks.

The first point to which he would crave leave to draw the attention of the Council was the part which Bengal had played in the interesting drama of the rise and progress of the British power in the East. It was an historical fact that the Revolution which led to the planting of the British standard on the soil of Bengal was brought about by a few leaders of the nation, who, driven to despair by the oppressions and cruelties of Suraja-doula of ill fame, invited Clive to take possession of the country and to wield the sceptre. And they all knew how from the plains of Plassey the Empire had grown and extended till it now covered almost the whole Indian peninsula; how the small band of merchants became the rulers of one-fifth of the human race; how England, which about three hundred years ago stood as a suppliant before the Great Moghul for a foot of space, as it were, on the plains of Bengal for trade in the East, had become the first and mightiest power in Asia. And what had been the share of Bengal in this wondrous consummation, the marvel of the civilized world, the envy of rival nations in Europe and America? The history of the rise and progress of British power in India might be divided into six great epochs—the first, from the time of Clive to that of Lord Amherst, who in 1827

proclaimed England as the Paramount Power in India ; the second from the reign of Lord William Bentinck to that of Lord Auckland, which was the era of peace, disturbed only by the disastrous campaign against Afghanistan ; the third, from the reign of Lord Ellenborough to that of Lord Hardinge, which included the conquest of Sindh and the first Sikh war ; the fourth, the Dalhousian era of annexation ; the fifth, the Sepoy Mutiny ; and the sixth, the direct government of the country by the Crown. From 1757 to 1805 occurred that keen struggle for dominion which ensued between the English, the French, and the great native powers in the country. Within this period were waged the great battles of Patna and Buxar between the English and the Emperor of Delhi and Mir Kassim, which won for the East India Company the province of Behar, the Rohilla war, the Mahratta war, the Mysore wars, and the conflict between the Nawab Vizier of Oudh and the Emperor of Delhi, in which the English supported the former. The result of this warfare was the establishment of British power on a broad and strong basis, the acquisition of Behar in 1764, of the Carnatic and other provinces in Madras in 1801, of the ceded districts in North India which now constituted the North-West Provinces from the Nawab Vizier of Oudh in 1807, and of Orissa from the Mahrattas in 1803-1804. And who was it that supplied the sinews of war during this eventful period ? The earliest revenue returns he had seen did not go back further than 1792, and from the returns from the years 1792-93 to 1801 he would give to the Council the receipts and charges of the then three divisions of the Company's territories. In 1792-93 the gross revenues of Bengal were £5,512,761, of Madras £2,476,312, and of Bombay £236,555. In that year the gross charges were for Bengal £3,873,859, for Madras £2,222,878, and for Bombay £844,096. The surplus revenue of Bengal was therefore £1,638,902. He would not weary the Council by going into the figures of all these years, but take the year 1801, which was the last of the years he wished to allude to. But he might say that during these

years the surplus revenue of Bengal varied from £1,439,812 to £2,157,785. In the year 1801 the gross revenue of Bengal amounted to £6,658,334, of Madras £3,540,268, and of Bombay £286,457. The gross charges were for Bengal £5,420,966, for Madras £4,614,387, and for Bombay £1,432,832—Bengal therefore again yielding a surplus revenue of £1,237,368. He stopped at 1801, because after that year the ceded districts of the North-West were annexed to Bengal, and the revenues of the two were mixed up. It would be seen from this statement that the revenues of Bengal in the early days of the English in India not only contributed to the acquisition of new territories, but also to the support of those which passed under English rule. As the wave of British power rolled on, the stream of Bengal revenue went along with it to feed that wave, and they had now the pleasure of seeing its fertilizing showers convert the newly acquired provinces into smiling gardens. So much for the contribution which Bengal had made from the hard-earned means of its children to the building up of the vast and glorious empire of England in the East.

To turn now to another phase of the question, how had Bengal been treated in its turn? They had the recorded testimony of by far the most distinguished Lieutenant-Governor of Bengal, Sir John Peter Grant, on this point. In a letter to the British Indian Association on the subject of the proposed tobacco tax, dated the 17th December 1861, Sir J. P. Grant wrote as follows :—

“ But perhaps it is not always borne in mind that the provincial expenditure upon public works—petty district works excepted—is limited by the supreme authority, and that the allotment made to Bengal by that authority from the general revenues has always been systematically less in an excessive degree (probably it would be safe to say by at least two-thirds) than what an allotment would amount to that should be framed on the principle of a share proportionate either to the revenue, or to the population or to the geographical extent of the Bengal provinces, or to all these together, as compared with the other provinces of India. The result of this system, continued for a long series of years, has been such, in a comparative view, as

those only who have seen many different parts of India, or whose duties have made them cognizant of what has been done from imperial funds for all parts of the Empire severally, are thoroughly aware of. At this moment there is only one really good road of any considerable extent complete in all Bengal, Behar, Orissa, Chota-Nagpore, Assam, Arracan, and Cachar (which may be taken as one-third part of British India), namely, the Grand Trunk Road; and it is not too much to say that this single work would not have existed if it had not been, by geographical necessity, an inseparable part of the line through the North-Western Provinces."

Now he thought that no one would have the hardihood to question the truth of this statement, but he had still further evidence. Sir George Campbell thus spoke on this point in this Council at the time of the introduction of the Road Cess Bill in 1871 :—

"Look at the roads, court-houses, serais, jails, and many other things in other parts of India, and you see at a glance that Bengal had great needs; and whatever the cause of the difference might be, if it was to be set right at all, we must do it ourselves, or otherwise it would not be done at all."

Well, they had it on the testimony of Sir J. P. Grant that up to 1861 financial justice had not been done to Bengal. How did the matter stand since? He had compiled some figures showing Public Works Expenditure Ordinary from 1861-62 to 1872-73; he had not seen later returns of divisional expenditure of the five great provinces of the Empire—Bengal, the north-west Provinces, the Punjab, Madras, and Bombay; he had not taken into account the smaller Provinces, as they were still in a nascent condition. The total grant for public Works Ordinary from 1861-62 to 1872-73 was for Bengal £8,691,000, while the gross revenue during those years amounted to £188,819,000; for the North-West provinces the grant was £4,193,000, and the gross revenue £69,679,000; for the Punjab the grant was £6,791,000, and the gross revenue £40,573,000; for the Madras Presidency the grant was £8,168,000, and the gross revenue £88,509,000; for Bombay and Sindh the grant was £12,437,000, and the gross revenue £109,506,000. The proportion of expenditure to revenue was therefore in Bengal £4 11s. per cent., in the North-West Provinces £6 0s. 4d. per

cent., in the Punjab £16 15s. per cent., in Madras £9 5s. per cent., and in Bombay £11 7s. per cent. The proportion per head of population was in Bengal 2s. 8d., in the North-West Provinces 2s. 9d., in the Punjab 4s. 8d., in Madras 5s. 3d., and in Bombay 15s. 4d.

It would thus be seen that though Bengal had yielded the largest amount of revenue and comprised the largest number of the population, it had had the smallest assignment from the imperial funds for the improvement of its material condition. But it might be said that perhaps justice had been done to it in the allotments for Public Works Extraordinary. He found that the total outlay on Irrigation Works to the end of the year 1875-76 was £16,454,000, of which £7,988,000 were spent in the North-West and in the Punjab, and £4,000,000 in Bengal, the remainder being spent in Madras and Bombay. The total outlay on State Railways up to the year 1779-80 was estimated at £16,780,000, and the allotment to Bengal amounted to £2,400,000. His object in laying these figures before the Council was to show that Bengal had hitherto been grossly neglected, and that though latterly the conscience of the Government of India was roused towards it, it had taken a new bound, and new taxation was to be imposed upon the people of this province to provide for the interest upon the capital outlay and the working expenses of the canals, though with their surplus revenue the Government had hitherto prosecuted works in the other provinces which had materially improved the imperial revenue and vastly enriched those provinces. Now, he would submit with all deference that if a debtor and creditor account had been kept with Bengal, showing her contributions towards the extension and consolidation of the Empire, and towards the material improvement of the other provinces, it would be manifest that Bengal, far from presenting a deficit for which new taxation was required, would have an enormous balance in its favour after meeting all legitimate local charges. But it was argued that the Empire was an aggregate, and that all the provinces should bear their legitimate bur-

thens.* He did not deny this truth, but the question was whether it was justice that from him who had always been giving much more should be taken. The Empire, he might say, resembled a vast joint undivided Hindu family. Bengal, as the eldest brother, had for years fed and nursed the younger provinces; but was it meet and just that fresh burdens should be laid upon it because it was supposed to be in a position to pay? He could not subscribe to that theory which sought to adjust taxation on incidence per head. If A could support his family with £5 per month, and B, his neighbour, could not do so without laying out £10, was it a sound reason that A should be mulcted £5 in order to make the incidence square? The only question was whether Bengal, compared with the other provinces, after paying all her legitimate expenses, left a sufficient surplus as her tribute to the Government of India for protection and imperial administration. The figures of the year 1872-73—those of later years he had not seen in a complete form—showed how Bengal stood from this point of view. The gross revenue from Madras was £8,173,806, and the gross charges £6,020,074, leaving a surplus of £2,153,732; the gross revenue from Bombay was £9,512,498 and the gross charges £7,313,506, leaving a surplus of £2,198,992; the gross revenue derived from the North-West Provinces was £5,831,067, and the gross charges were £2,258,932, the surplus being £3,572,135; in the Punjab the gross revenue was £3,588,076, and the charges £2,129,928, leaving a surplus of £1,458,148; but in Bengal the gross revenue was £15,831,072, and the gross charges being no more than £5,756,334, an enormous surplus of £10,074,238, was left. It would thus be at once apparent that Bengal yielded the largest surplus. But it might be urged that Bengal could not justly claim the full amount of the opium and customs revenues which were derived in Bengal, and he was quite willing to make a reasonable deduction on that account. In 1872-73 Benares opium realized £2,468,024, and allowing one-fourth of the customs revenue for the share of North India, and a similar deduction being allowed for

the Bombay Customs—for since the opening of the Suez Canal and the completion of the Jubbulpore line of the East Indian Railway there were now two routes for commerce into Northern India—the total deductions amounted to £2,710,000, which, being deducted from the surplus of Bengal, left a net balance of seven and one-third millions in favour of Bengal. He had, however, heard it said that it was China, and not Bengal, which paid the opium revenue; but the wine duties of England, which amounted to about twenty millions, were paid by consumers in other countries, and yet the English treasury took the credit of it. In fact, all export duties were paid by consumers in other countries, but the produce of the duties was considered revenue. Again, they had been told that the revenue was so large because the Government maintained a monopoly; but if an excise duty had been levied on opium, and the receipts had been less, the difference would have gone into the pockets of the people, and it was therefore a direct contribution by them. Further, it had been argued that Bengal was not defended in Bengal. No one denied that; but the question was whether the surplus that Bengal yielded did not cover the cost of its protection and the benefits it derived from imperial administration.

He was quite conscious that the facts and figures he had put forward would not alter the determination of the Government of India, and would not therefore affect the question before them. The fiat had gone forth that Bengal shall be taxed, and nothing would probably alter that decision. But if the facts and figures which he had taken the trouble to collect from official records, and for listening to which with so much patience he had to thank hon'ble members, satisfied His Honour that financial justice had not been done to Bengal, he felt confident that His Honour, who was not only the responsible ruler, but also the mouthpiece of Bengal, would take them into consideration, in another capacity, and plead at the bar of the Government of India for that justice to the dumb millions of this province.

He now came to the Bills before the Council. Although the Irrigation Cess Bill had not yet been introduced, the principles which had led to the inception of the two Bills were identical, and he hoped His Honour would permit him to discuss them together.

The necessity for the new measures of taxation arose from the novel distinction which the Government of India had made between public works of provincial and general utility. It was said that works of provincial utility were not works of general usefulness, and that therefore they should be charged to provincial fund, and not to the imperial fund. Now, if the question were considered calmly and dispassionately, it would be seen that the distinction drawn was more fanciful than real; in fact the Hon'ble the Financial Member of the Supreme Council was himself constrained to admit that it was difficult to observe the distinction in its integrity. Sir John Strachey divided Public Works Extraordinary into three classes, the first of which only were undertaken purely from imperial considerations. With regard to the second and third class he remarked :—

“They are in both cases works of improvements for developing the resources of the country and for meeting its necessary requirements; and in respect of them it is anticipated that, besides the indirect advantages to the country arising from their construction, they will yield within a moderate time a direct income at least equal to the interest on the capital expended on them. Some of these works, which I put into my second class, are undertaken for objects of such general utility that they may be fairly called Imperial.”

Again :—

“There is, as I said before, no broad line of difference between such works as these and works of imperial utility. Imperial works confer great local benefits, and works of local utility enrich the Empire; but although the two classes of works thus run into one another, the distinction is nevertheless a real one, and it has not been sufficiently recognized.”

Such being the case, he would submit that the two major considerations should merge into the minor. But there were other reasons that could be fairly urged in favour of the bias which he took. What were the primary objects of irrigation

works? The first was an increase of the imperial revenue from land, and the second the development of the material resources of the country; but the arbitrary distinction now drawn by the Government of India ignored the fact that the land revenue was greatly increased by extension of cultivation with irrigation water. This subject was thus noticed in a valuable work on the advantages of irrigation in India:—

“Taking £3 per acre as the value of gross produce from canal-irrigated lands per annum, and Government share of land assessment one-sixth the value of produce, on four million acres watered by State canals, the amount will be two millions sterling per annum land assessment, which Government would not derive but for the canals.”

Nevertheless the canals, although a fertile source of revenue to the Imperial Exchequer, were now declared to be works of provincial utility, and the charge upon them was made a local burden. Then again with regard to irrigation, the provinces of Bengal Proper and Orissa were differently situated. The natural rainfall was quite sufficient in Bengal for agricultural purposes, and drought occurred but occasionally. Here the soil and the nature of the crops required incessant moisture, and in this respect the irrigation works failed to accomplish the purpose for which they are intended. With regard to Orissa, perhaps he could not do better than quote the remarks contained in the Bengal Administration Report for 1871-72 on the subject. They were as follow:—

“The rainfall in Orissa averages about 50 to 60 inches, and it cannot possibly be expected that the people should be willing to pay such high rates for water as in countries where the rainfall is one-half or one-fourth the quantity. This too is not all: high rates are gladly paid for water supplied at seasons when there is little rain. On the other hand, the Orissa rivers have an extremely scanty flow of water at that season, and we must chiefly depend on the irrigation of the rice and other rainy season crops for a revenue from the canals. It is principally at the end of the season, in October, when rain may or may not fall, while the rivers still hold a considerable flow of water, that the benefit is felt. Probably it may turn out that a uniform supply of water, well managed by a skilful system, will give better crops than an irregular,

though heavy, rain supply ; but at present the people look on a water-rate merely as a sort of insurance against a possible failure of the rains, especially in failure at the end of the season ; and they are very unwilling to agree to pay heavy rates till at least the failure is actually on them. If the year is a good ordinary one, and there is no especial failure of the rains, they think they can do very well without irrigation."

And in fact they had found that they could do so. If they had not hitherto availed themselves of the canals constructed, it was, he believed, because they did not realize the advantages proffered. The hon'ble member in charge of the Irrigation Cess Bill remarked last week that the return of the irrigated area was Rs. 3-3 per acre more than that of the unirrigated area. He (BABOO KRISTODAS PAI) could not venture to contradict such an authority, but he must say that, whatever the shortcomings of his countrymen, they were astute enough to understand their own interests, and that, if they had found irrigation water so remunerative, they would not surely have been so backward in taking it. They would, he thought, be willing to pay even 50 per cent. if they could see that they would make another 50 per cent. by doing so. But he concluded that, finding that this would not be the result, they had hitherto refrained from using the water of the canals except in case of absolute necessity.

[HIS HONOUR THE PRESIDENT said he was unwilling to interrupt the hon'ble member, but it appeared to him that the tendency of the hon'ble member's remarks was with reference to the Irrigation Bill and the compulsory cess, and he would therefore suggest that these remarks should be reserved till the Irrigation Bill came before the Council.]

He said that, in accordance with the suggestion made by the Hon'ble the President, he would reserve his remarks on this head for the present. The principle of the Bill which was before the Council was that the whole of the provision for irrigation works and State Railways in Bengal should be made by the Local Government. These public works had owed their origin to the action of the Imperial Government, but having proved financial failures,

they were now made over to the Bengal Government ; in fact, the people of these provinces were called upon to make up the loss which the Government of India had sustained by its own inconsiderateness. He admitted that they had been undertaken by the Government of India with the best of motives, but there had been a sad want of information and foresight on the subject. There could be no doubt that, if the Government had not purchased some of these works at exceedingly high prices, they would have been perhaps sold for a mere song ; for their prospects were never very cheering, and no one would have paid the high price for them that the Government did. Now, in order to meet current interest and working charges of these undertakings, it was proposed to double the road cess, which, when it was first imposed, was intended to be confined to local purposes only. He could not understand why the "land" alone had been singled out for taxation, when these works, if they were to be regarded as an insurance against future famines, would in that sense be beneficial to the whole community, though he doubted that, when water could not be had in sufficient quantities when most needed, they could justly be regarded as an insurance against drought. On the other hand, if the general wealth of the nation was developed by means of irrigation canals and railways, the whole country would be benefited. But because the road cess was a simple method—and he was quite willing to admit that as a means of drawing direct taxation, the plan of the road cess was by far the easiest, cheapest, and least troublesome—that was no reason that the land should bear the whole burthen. It should be remembered that when the road cess was first proposed, it was regarded as an inroad on the Permanent Settlement. Nor was it unjustly so regarded. When the Permanent Settlement was made Lord Cornwallis wrote to the Court of Directors :—

" If at any future period the public exigencies should require an addition to your resources, you must look for it in the increase of the general wealth and commerce of the country, and not in the augmentation of the tax upon the land."

And here he would, with the permission of the Council, make a digression, and submit a statement showing the produce of indirect taxes in the five great Provinces of the Empire.

Thus the North-Western Provinces yielded in salt £476,608, excise £203,391, stamps £351,328, customs, after taking due credit from Bengal and Bombay, £245,372—total £1,276,699. Similarly, the Punjab yielded in salt £541,253, excise £97,129, stamps £239,242, customs £294,851—total £1,471,475. Madras, salt £1,331,183, excise £602,767, stamps £484,246, customs £315,468—total £2,753,664. Bombay, salt £796,244, excise £377,939, stamps £458,385, customs, less deduction for Northern India at one-fourth, £547,140—total £2,179,758. Bengal, salt £2,648,361, excise £698,817, stamps £935,108, customs, less deduction for the share of Northern India at one-fourth, £810,031—total £5,002,317.

It would be thus seen that the four principal branches of indirect taxation were most productive in Bengal, fully justifying the expectation of the far-seeing statesman who gave this Magna Charta to the agricultural population of Bengal.

Some erroneous notions seemed to exist as to the character of the Permanent Settlement, and he could not therefore do better than give the judicial construction of it in the words of Messrs. Tucker, Barlow, and Hawkins, Judges of the Sudder Dewanny Adawlut in 1848. They said :—

“It is a narrow and contracted view to suppose that the Permanent Settlement consists in nothing more than the obligation on the part of the zemindar to pay a certain amount of revenue annually to the Government. The settlement is a compact by which the zemindar engages on his part to pay a fixed amount of revenue to the State ; and the State on its part guarantees to the zemindar, by means of its judicial and fiscal administration, the integrity of the assets from which that revenue is derived, and which in fact constitutes the Government's own security for the realization of the revenue.”

He would not trouble the Council with what that eminent lawyer Sir Barnes Peacock wrote on the subject when he was asked to draft a Bill for the levy of a Rural Police Cess on land

in Bengal. On perusal of Sir Barnes Peacock's Minute, Lord Dalhousie wrote as follows :—

"I have studied with deep attention the valuable Minute which has been recorded by our honourable and learned colleague Mr. Peacock relative to the legal or equitable right of the Government of India to levy a further assessment on the holders of land in these Lower Provinces for the payment of a police force. The draft Act on which Mr. Peacock comments was transmitted by myself from the Government of Bengal. I am therefore the more bound to say that the clear reasoning by which he has supported his opinion adverse to the levy of the proposed rates on the holders of lands, has fully convinced me that this Act should not be extended to rural villages. I therefore assent on my own part that the word 'village' should be omitted from the draft Act."

That opinion was subscribed to by the other Members of Council—the Hon'ble Mr. Dorin, the Hon'ble General Low, and the Hon'ble Mr. Halliday. The Indian Educational Blue-Book, which was published a few years ago by order of the House of Commons, also contained a number of opinions of the most distinguished Indian officials on the subject of the Permanent Settlement, in which it was broadly stated that the imposition of the road cess would be a breach of the settlement. The Indian Council was divided on the subject, and it was a vote which carried the despatch of the Secretary of State sanctioning the imposition of the present road cess. Such eminent Indian statesmen as Sir Erskine Perry, Sir Frederick Halliday, Sir Frederick Currie, Mr. H. T. Prinsep, Mr. R. D. Mangles, and Sir Henry Montgomery opposed the cess on the ground that it involved a direct infringement of the Permanent Settlement. But if the road cess was a violation of the pledge given, how much more so was the proposed cess embodied in the Bill now under consideration? There could in fact be no comparison between the two. The Secretary of State hedged in the road cess with the following conditions :—

"It would indeed be most desirable if the local character of these rates could be emphatically marked by committing both the assessing of them and the application of them to local bodies" * * * , and if possible to carry the

people along with us through their natural native leaders, both in the assessment and in the expenditure of local rates.

"It is, above all things, requisite that the benefits to be derived from the rates should be brought home to their doors,—that these benefits should be palpable, direct, immediate."

That was the opinion of the Secretary of State. And Sir George Campbell, when the Bill was before the Council, spoke of it in the following terms :—

"The object and intention of this Bill was to make a beginning of self-government by introducing a mode of local self-taxation, and leaving the administration of the funds received from local taxation to the people of the locality for whose benefit and improvement the taxes are imposed."

And again :—

"The object, the principle, the very essence of this Bill was simply this, that we sought to obtain from the people of Bengal permission to enable us to tax them for their own benefit, not for the general purposes of Government, but for the local benefit of a particular locality ; and we wish to make the form and mode of taxation as local as we can."

The object of the cess was thus made distinct both as to place and time, and it was not then contemplated to increase it. In fact, when Mr. Wordie anticipated the future by expressing an apprehension of increase of taxation by this easy method, Sir George Campbell remarked that there was no reason for such an apprehension, saying that "he did not know whether any additional cess would ever be imposed." But the present Bill proposed the doubling of the road cess for provincial works, which would necessarily be confined to the class interested in land. That such class taxation was opposed to all sound principles of taxation and justice would be seen from the opinion recorded by one of the most eminent economists produced by England, John Stuart Mill. Writing on the subject of a tax on rents, he said :—

"A tax on rents falls wholly on the landlord. There are no means by which he can shift the burthen upon any one else. It does not affect the value or price of agricultural produce, for this is determined by the cost of production in the most unfavourable circumstances, and in those circum-

stances, as we have so often demonstrated, no rent is paid. A tax on rent therefore has no effect other than its obvious one : it merely takes so much from the landlord and transfers it to the State."

And again :—

"A peculiar tax on the income of any class, not balanced by taxes on other classes, is a violation of justice, and amounts to a partial confiscation."

The question therefore which the Council had to consider was whether or not this partial confiscation was not involved in the proposed scheme of taxation—that was to say, whether the Bill was or was not open to the reproach of John Stuart Mill.

Now, it might be said that the Government was obliged to have recourse to extra taxation on account of the burdens thrown upon it. But was there no other means at hand for obtaining revenue? If the salt tax were raised 8 annas a maund, the yield would be more than forty lakhs, while the pressure would be little more than one anna per head. But by doubling the road cess, which was at the maximum figure of two pice in the rupee, the sum to be realised was, he believed, estimated at 38 lakhs, of which 20 lakhs might be said to be the share of the ryots and small tenure-holders, if the cess were levied at the maximum sum in all districts. He did not know the exact number of cess-payers who were ryots or small tenure-holders; but taking the estimates of the census report of the agricultural population at $2\frac{1}{2}$ millions, the pressure per head was about 13 annas; and giving four souls to each family, the pressure per head of each agricultural family came to three annas one pie, or over 300 per cent. of the proposed addition to the salt tax.

The salt tax was one which many authorities in Bengal were of opinion should be regarded as a provincial reserve in cases of urgent necessity. Six year ago, during the discussions on the Road Cess Bill, the Hon'ble Mr. Scholch said:—

"If it should be necessary to have recourse to provincial taxation, he believed that an increase in the salt duty only would prove the most suitable for that purpose, and therefore it must be held in reserve."

His Honour the present Lieutenant-Governor was also strongly in favour of an increase to the salt tax in lieu of the road cess, and perhaps he could not do better than read to the Council some extracts from a speech made by His Honour in this Council six years ago:—

“ The Hon’ble Ashley Eden said he did not propose to follow his Honour the President on the question of local taxation, but only desired to express his general concurrence in the views that had been expressed. But as allusion had been made to those who were strongly in favour of an increased salt duty in lieu of direct taxation, and as he had taken an active part in supporting that view, he thought that he might be permitted to give his reasons for the notions which he entertained on the subject. He should like to state his reasons for not considering the arguments that had been adduced by the Hon’ble the President against an increase of the salt duty as altogether conclusive.

“ First, it was said that salt was an article of imperial revenue, which we were therefore unable to tax. No doubt if the Council was to sit down and propose to pass a law for raising the duty on salt, this objection would be absolutely unanswerable; and obviously, if the Government of India would not consent to our raising funds for Provincial Services by an increase of the salt duty, there was an end to the matter.

“ But what he desired to urge, and what those who thought with him desired to urge, was that if it could be conclusively shown that the salt tax was the best mode of raising the necessary increase to taxation for provincial purposes, and the mode was in accordance with the wishes of the people who had to be taxed, it would be open to the Local Government to ask the Government of India to agree to the imposition of a small addition to the existing duty on salt for local purposes. Every one fully admitted that this Council could not impose a tax on salt; all that it was desired to urge was that the Government of India, in lieu of pressing us to raise local cesses of an irritating and wasteful character, might themselves do all that was necessary by this indirect form of taxation, to which nobody raised any sort of objection, and, in fact, which nobody knew that they were paying.”

“ The price of the salt commonly used by the lower classes was less than two annas per seer, and had continued at that rate for a long time; yet the first investigation into the subject of a salt tax in the early days of our rule in India showed that two annas was the retail rate: so that practically at the first levy of this duty the tax had been just as much felt by the consumer

as now, and more so; for although the price of every other article of consumption had largely increased, although the price of labour and the rate of wages had much increased, though the value of money had decreased, the price of salt remained what it was when we first came into this country. * *

"Next it was said that salt could not bear an additional tax. It appeared to him that when we came to consider that each person consumed on an average six seers of salt per annum at the outside, and that a small increase of duty, say four annas or eight annas per maund, would yield more than all the local taxes put together, it was quite clear that not a single person in the country would know that he was paying any additional tax at all. What was four annas or eight annas per maund to the agricultural labourer who only eats the seventh part of a maund in the year, compared to a cess on land, or a house tax? Even those who knew that the salt which they consumed had been subjected to the payment of a duty did not know how the tax was paid or collected.

"Then it was said that an increase of the salt tax would have the effect of shifting the burden from the rich and putting it upon the poor. But he thought that such an argument would hardly bear examination; it was one which had often been used and as often refuted. For although probably the poor man consumed as much salt as the rich man, yet if we took into consideration the peculiar relations of the rich with the poor—if we consider the number of retainers that the richer classes of the natives had always about them—it would be found that the apparent inequality did not in fact exist; for every native was accustomed to feed his retainers, and they therefore not only paid the tax themselves, but for all their retainers as well. Where a poor man paid a single rate, the rich man paid 10, 20, 30, or 50 rates, as the case might be. Any way, if the tax was heavy on the poor man, he would not be slow to shift it, by the increased price of labour to the rich."

Nothing could be more clear, more cogent, and more convincing than the arguments of His Honour in favour of a slight addition to the salt tax as a substitute of direct taxation; and what His Honour said six years ago would hold equally good now. He need not repeat the opinion so often expressed that direct taxation was utterly unsuited to the habits, feelings, and character of the people of this country. The only argument that he had heard in favour of the new system of local finance was that it gave more freedom to the Local Governments. He was

free to confess that that was a consummation most devoutly to be wished for ; but the cost at which that freedom had been purchased was very great, and the principles on which the system of localization of the charges referred to was based were contrary to justice, reason, and right. He was personally as warm an advocate of home rule as ever existed, but he prized justice above all things ; and when he saw that the freedom of the local Government was to be bought at the sacrifice of the plighted faith of the State, and at the risk of partial confiscation of one class of profits, as John Stuart Mill called it, he could not help saying that it was too dear a price.

He had done. He thanked the hon'ble members for the courtesy and attention with which they had listened to him. He felt that he should not be doing his duty if he did not mention that there was a considerable feeling among the native community on the subject of the proposed taxation. He hoped it would not be understood that they wished to evade their legitimate burdens. They were deeply grateful to the British Government for the manifold blessings they had received from it and they yielded to none in loyal devotion to make the necessary sacrifice for the well-being of the commonwealth. But they wanted justice. And they had this consolation that they had at the present moment one at the head of the Local Government who knew the people, and whom the people knew, who warmly sympathised with them, and to whom they were deeply attached, for whose sake they were prepared to make any reasonable sacrifice, and who, they felt confident, would do nothing which might involve wrong and injustice to them.

The Hon'ble Mr. Reynolds presented at a meeting of the Council held on the 28th April 1877, the report of the Select Committee on the Bill to provide for the levy of a cess for the construction and maintenance of provincial public works.

The HON'BLE BABOO KRISTODAS PAL said that, before the Council proceeded to take the report of the Select Committee into consideration he wished to make one remark. The object of the Bill was to enable the local Government to raise sufficient funds for meeting the liabilities which had been thrown upon it by the Government of India. The amount which the local Government was required to raise was Rs. 27,50,000. But from information which he had received from the mofussil from well-informed persons, it appeared that the new land Registration Act, which had been lately put into force, was likely to bring in a large amount of stamp revenue; it was estimated by competent persons that the increase of stamp revenue might amount to Rs. 50,00,000. He was not in a position to say whether that estimate was correct; but if the Government got a good windfall, it was worthy of consideration whether it was necessary to impose the new tax this year. The stamp revenue derivable on registration was sure; applications must be made by landlords, and as a large number of powers-of-attorney must be executed, a large accession of revenue might be thus looked forward to. His object in drawing attention to the subject was that as the stamp revenue had under recent orders been made over to the local Government, the increase would go to that Government, and if it should obviate the necessity of additional taxation this year, the Council would gain time and would be better able to adapt the scheme of taxation to the views, feelings and wishes of the people. He did not say that this windfall would obviate the necessity of taxation altogether, but it would give time to the Council to consider the most suitable form of taxation. He did not intend to make any motion, but merely threw out this suggestion for the consideration of the Council.

At a meeting of the Council held on the 5th May 1877, the Hon'ble Mr. Reynolds postponed his motion for the passing of the Bill to provide for the levy of a cess for the construction, charges, and maintenance of provincial public works in Bengal.

The HON'BLE BABOO KRISTODAS PAL said that when, at the last sitting of the Council, he referred to the increase of stamp revenue which might be expected from the enforcement of the Land Registration Act, he said he had no distinct data before him such as would enable him to give an estimate of the exact amount to be derived, but from information he had received from competent persons in the mofussil, he was led to believe that it would at least cover the amount which the local Government sought to raise by the two Bills now before the Council. He thanked the hon'ble member for favouring him with the data which he had obtained for forming an approximate estimate of the expected increase of revenue from the Land Registration Act. That amount, the hon'ble member thought, would not exceed four or five lakhs of rupees, and the hon'ble member had given his reasons for this estimate. He dared say the hon'ble member had made the fullest inquiry before arriving at that conclusion ; but it struck him that there was one important omission in his first item. If he had followed the hon'ble member correctly, he said that the number of estates in the Lower Provinces of Bengal amounted to 150,000. If he remembered aright the figures given in the land revenue reports of the Board of Revenue for the last three or four years, he believed that the number of estates in the permanently-settled districts was 150,000. Now the districts of Orissa—Balasore, Cuttack, and Pooree—so far as he was aware, contained a multitude of small estates, some of them comprising only five or six beeghas of land, and the number of shareholders was again very large. So he was not quite sure whether the small estates in Orissa, which were so large in number, had been included in the grand total mentioned by the hon'ble member. A

large revenue, he thought, might be expected from the working of the Land Registration Act in Orissa alone. Last week he received a letter from Cuttack, in which it was stated that in March last the sale of stamps for purposes of the Land Registration Act produced Rs. 50,000 in the district of Cuttack alone. Then again he might mention that he had a conversation lately with one of the most experienced judicial officers in Tirhoot, who told him that the sale proceeds of stamps in connection with the Land Registration Act in that district would probably amount to Rs. 1,00,000. In that district the estates were small, and the number of sharers very considerable. Of course he spoke only from what he had learnt from others. He had no official data before him, and he might state that he would be greatly disappointed if the increase of revenue from the sale of stamps for purposes of the Land Registration Act did not exceed Rs. 5,00,000.

Then, with regard to the remark of the hon'ble member, that the notification requiring people to register their titles to lands, which was issued in November last, allowed six months from that date, and that the sale of stamps for applications made previous to April would not benefit the provincial revenues, he fully admitted that fact; but he believed the hon'ble member was aware that there had been a rush for registration only since April last and that people had been sleeping, as it were, over the thing for, the past four or five months, and had rarely taken active steps for filing applications. Of course there had been applications filed during the preceding five months, but he did not think the number was very great; so that the bulk of the increased revenue would be derived by the local Government, since the stamp revenue had been made over to the local Government from the 1st of April last.

In conclusion, he desired to state that, consistently with what he had said on the occasion of the introduction of the Bill into Council, when he took the liberty to object to the principle of the Bill, he felt it his duty to enter his formal protest against the passing of the Bill into law.

RATE UPON IRRIGATED LANDS.

The Hon'ble Mr. Ravenshaw moved at a meeting of the Council held on the 14th April 1877, that the Bill to provide for irrigation in the provinces subject to the Lieutenant Governor of Bengal be read in the Council.

The HON'BLE BABOO KRISTODAS PAL said that, reading this Bill in the light of the opinions recorded by such eminent authorities as Sir George Campbell and His Grace the Duke of Argyll, when a similar proposition was mooted about six or seven years ago, he must say, with all deference to the hon'ble mover of the Bill, that it was a measure in which principle was sacrificed to expediency and justice to convenience. The Bill surrendered the free trade principle on which the supply of irrigation water had hitherto been provided, and substituted coercion. It told the proprietor who owned the land and the peasant who tilled it, "whether you take the water or not you must pay for it. The work is there; it has been intended for your benefit; the expenses have been incurred; you may not have the intelligence to appreciate it; but money must be had, and you must therefore pay." It was, however, forgotten that when the works had been undertaken the people had not been consulted. The primary object of the projectors was commercial profit, which the hon'ble mover of the Bill seemed to ignore, though the Government, from motives of benevolence or philanthropy, had guaranteed the interest on the capital. The schemes having proved financial failures, it was now sought to recoup the loss by imposing a compulsory irrigation cess upon the people of the districts through which the canals ran. Surely it could not be reasonable or just to tax them on the pretext that the works had been intended for their benefit. This was not his individual opinion. The Hon'ble Council would doubtless attach much greater weight to the opinions of such experienced administrators and such eminent states-

men as Sir George Campbell and His Grace the Duke of Argyll, than to those of any private individual like himself. Sir George had carefully studied the irrigation question, and, after making the fullest enquiry on the subject, he wrote as follows :—

“In the face of all these difficulties, notwithstanding my strong objections to a compulsory system, I was attracted by the somewhat tempting bait held out in the Punjab Canal Bill, where the compulsory rate is limited to Re. 1 per acre—a rate which, in a dry country like the Punjab, seemed very cheap for cold-weather crops, if the provision is *bond fide* carried out that an independent authority is to decide if the land really needs water and has an ample supply of it. It would be much more difficult to determine what really needs irrigation in the rainy season in Orissa : all lands do not want it there, and while one year it is beneficial, another year it is not needed. If once we depart from the straight path of voluntary contract, we do not know what we may come to.”

It would appear that the hon'ble mover of the Bill, as Commissioner of the Orissa Division, had advocated the imposition of a compulsory irrigation rate, and Sir George Campbell replied as follows :—

“I must guard myself against any supposition that I can for a moment concur in the doctrine that it is fair to charge the interest of capital expended on the locality for whose benefit it was intended, that people who have no voice in the matter should be made to pay for engineering or financial failures, not because they are benefited, but because the projectors intended to benefit them.”

Yet it was now proposed to impose a compulsory irrigation rate for reasons which Sir George Campbell had held were conclusive against it. It would be in the recollection of the Hon'ble Council that in 1869 the Punjab Canal Bill was passed by His Excellency the Viceroy's Council sanctioning a compulsory irrigation rate; the Bill was in due course forwarded to the Secretary of State, who vetoed it in the following terms :—

“The object of the provision in question is to enable Government to secure itself against pecuniary loss in the event of a canal proving a financial failure. Such failure might ensue from three causes—a canal might not be able to supply for irrigational purposes the expected quantity of water ;

or, the expected quantity being available, cultivators might decline to avail themselves to the expected extent; or excessive costliness of construction might, in order to render a canal remunerative, necessitate the imposition of higher rates than cultivators could afford or would voluntarily pay. In the first case, under the proposed enactment the loss consequent on Government having engaged in an unsuccessful speculation would fall, not upon itself, but upon the cultivators whom it had disappointed. In the second, cultivators would be forced to pay for water for which they had no use, or at any rate, were not disposed to use, possibly no doubt from imperfect appreciation of the value of irrigation, but quite possibly also from a perfectly intelligible desire to have part of their land under dry crops instead of all under wet. With regard to the third, none can require less than your Government to be reminded how prone to become excessive guaranteed expenditure always is, and under the provisions of the Bill all expenditure on Government canals would be guaranteed. It will therefore be satisfactory to me to learn that the section to which exception has been taken can be so far modified as to obviate any objections."

He had nothing to add to the objections so pithily described by His Grace the Duke of Argyll. The argument against the compulsory irrigation rate in the Punjab, he submitted, applied with equal force to a compulsory irrigation cess in Bengal.

The hon'ble member in charge of the Bill informed the Council that in Orissa during the thirty-six years preceding 1866 the State had been subjected to a loss of no less than 45 lakhs of rupees in the cost of maintaining embankments and remission of revenue in consequence of flood and drought. Now he held that this fact was more an argument against than in favour of a compulsory irrigation cess. It should be remembered that in Orissa the State occupied the position of landlord, and that, if a private landlord had certain obligations to discharge for the protection and welfare of the tenantry, the State landlord had also similar obligations to perform; that if it was the duty of a private landlord to construct and maintain embankments, it was the duty of the State landlord to do likewise; that if it devolved upon a private landlord to grant remission of rent in calamitous seasons, it also devolved upon the State landlord to grant similar relief under

like circumstances; and that if the irrigation works had saved the State this recurring loss, it ought to bear the cost of those works which were so remunerative to it. The hon'ble mover had said that the irrigation works in Orissa had a firm hold upon the people; that the ryot who once took the irrigation water would not let it go; that there was no retrogression, but progression. If such was the case, then why impose a compulsory rate? But he was sorry to perceive from the Minutes of Sir George Campbell that the irrigation works in Orissa did not come into popular favour so smoothly and easily as the hon'ble member supposed. Referring to the proceedings of Mr. Kirkwood, who was then the Superintendent of the Orissa Canals, Sir George remarked:—

"It now turns out that his statements, showing the successful progress of irrigation, were in a sense fictitious, that is to say, by far the greater portion of his figures represented not irrigation which the people had agreed to take and pay for, but the area which, in the exercise of a despotic power, he imagined that he would call on them to pay for. The system was supposed to be entirely one of voluntary agreement, but the *bona fide* agreements covered but an insignificant area. For the greater part he had no agreements at all; some agreements were for large areas with persons who were not properly qualified to make them, and which fell to the ground; and where he had agreements, it was for no definite area, but for areas to be afterwards measured and ascertained."

This was the way the people were 'educated' to receive the irrigation water. Now, the strongest argument in favour of a compulsory irrigation rate was that the canals were an insurance against drought. But could this insurance be relied upon? Could this insurance be considered sure? Unfortunately the supply might fail when most needed. He at the last sitting of the Council quoted Sir George Campbell as to the inadequacy of the Orissa Canals in this respect. He would now quote the same high authority about the Midnapore Canals. Sir George remarked:—

"There was a really extensive demand for the water, the rules were considerably relaxed, and it was believed that the day of triumph had come."

But unhappily all these prospects were darkened by a circumstance which the projectors of the canal do not appear to have taken into account, though it seems obvious enough ; the supply of water in the river which feeds the canals failed in October and November, just when water was most wanted. Short rivers rising on the surface of dry uplands must fail when the rivers fail. Though there was by no means so excessive a drought in Midnapore as in the rest of Bengal and Behar, the supply to the canal fell to 300 feet per second at the time when water was most necessary to the crops. This quantity will not suffice for much more than 30,000 acres ; so much was irrigated, but many applicants were sent away without water, and even to some of those to whom we had engaged to give it a very short supply was available. It seems, then, that we cannot safely engage to irrigate very much more than 30,000 acres without the fear that we shall fail to do what we have undertaken to do in every dry season when the rains cease early. It is seldom that the water is an absolute necessity at any other time, and the serious question arises whether we can undertake to extend our irrigation subject to this risk, and how we are to distribute the supply when we have not enough for all."

Perhaps the prospects of the Soane Canal were more promising than those of any other. On this subject the hon'ble member (Mr. S. C. Bayley) who lately presided over the Patna Division with so much ability and success would be able to enlighten the Council ; but even as regards this canal, two experienced European zemindars and indigo-planters of Shahabad, Messrs. Thomson and Mylne, he saw in a public print, were of opinion that " the experience which the cultivators here (Shahabad) have so far had of the canal has not been such as to inspire them with any confidence that it will ensure them the supply of water for a given crop and at a time when it is really needed."

It would be thus seen that if the compulsory irrigation rate was justified on the ground that the canals were an insurance against drought, that prospect, according to the testimony of experienced officials and non-officials, was doubtful. On the other hand, the ryots would be compelled to pay a uniform rate in good years as well as bad years, both when there would be an abundant rainfall, when they would not require the canal water, and when

there would be drought, when they would most urgently require it, but might not get it in sufficient quantities. Then the benefit of irrigation was not equal; some cultivators might profit, others might lose; but all would have to pay the same rate. That land suffered from the too close contiguity of the works was well known. He had received a letter from a zemindar of Hooghly, Baboo Lalitmohan Singh, who owned some villages near the Ulubaria canal. This gentleman complained that his ryots in thirteen villages which he had named could not get any crop owing to the overflow of the canal and obstruction to drainage. He would read the following extracts from this gentleman's letter :—

"1st.—These villages being low, the lands seldom require to be irrigated, inasmuch as the ordinary rainfall there is quite sufficient for purposes of cultivation.

"2nd.—The canal does not, and in fact cannot, drain off the water that accumulates in the lands and villages.

"3rd.—Some of the sluices of the canal having been closed, the villages could not be drained out of the rain-water that had accumulated in them since the rainy season; and the lands are still under water and quite unfit for cultivation.

"4th.—The water having deposited on these lands totally destroyed the paddy, the only crop that grows in that part of the country, and impoverished the ryots and cultivation.

"5th.—The accumulation of water in these low lands and villages for a considerable length of time placed the villagers in great difficulty in procuring fodder for their cattle, on the existence of which, as agriculturists, they mainly depend.

"6th.—This submerged state of the lands is calculated to generate malaria, which is always produced by an excessive humidity of the soil. Indeed, the people complain of the villages having already become unhealthy."

And yet, if this Bill were passed, the ryots of these unfortunate villages, who could not get crops or fodder for their cattle, would be subjected to a compulsory irrigation rate.

With regard to the provisions of the Bill, he could not understand why two rates should be levied—the one called "irrigation

rate" and the other "protection rate." The protective works were required for the protection of the irrigation works, and thus formed a part and parcel of the irrigation system. Where the embankments would not be required for the protection of irrigation works, they would be put up under the Embankment Act, either at the expense of the State, or of the holders of the land, as the case might be; and if the latter, an embankment cess would be imposed upon them. Surely it could not be intended that a double cess would be levied for embankments. Then again it was provided that all irrigable lands should be liable to the irrigation rate; but how was the area to be defined, and who was to define it? It would seem that the Government would not be bound to supply water at a greater distance than a mile from certain irrigable lands; this provision was not at all explicit, but was that to be the limit of the irrigable area? The Bill was not at all clear upon the point; it left the determination of the boundaries of the irrigable areas to the discretion of the canal officers, who would be naturally anxious to swell the revenue.

Lastly, he was at a loss to know why the carefully prepared sections in the Irrigation Act of 1876 regarding the construction of village channels had been left out of this Bill. Those sections had provided for due compensation to cultivators for lands which might be taken up for village channels; but the present Bill required that a *free passage* should be given for village channels. Now, for every acre of land, no small portion of it would be taken up for village channels, and it did not at all stand to reason that one cultivator should give up his land free of charge for the benefit of another, simply because the village channel would be common. This part of the Bill, he thought, was a direct invasion of private right.

For these reasons, he continued to say, he could not accept the principle of the Bill. He was free to confess that the Local Government was in a difficult position; it had been required to raise money for the maintenance of the works, and it must fulfil

its task. But he would venture to ask why, if seven years ago the Secretary of State, after full enquiry and deliberation, had decided that a compulsory irrigation rate was most objectionable, was there to be no fixity or continuity in the policy of the Government? It could not but be deeply regretted that this retrograde move should be made in a province where the principles of progressive government were so fully recognised.

LICENSE TAX ON TRADES, DEALINGS AND INDUSTRIES.

The Hon'ble Mr. Mackenzie moved at a meeting of the Council held on the 5th January 1878, that the Bill for the licensing of arts, trades, and dealings in the provinces subject to the Lieutenant Governor of Bengal be read in the Council.

The HON'BLE BABOO KRISTODAS PAL said, he believed he spoke the sense of the Council when he said that they felt greatly beholden to the hon'ble mover of the Bill for his able, elaborate, and eloquent exposition of the circumstances which had led to the proposed measure. There could not be a single member of this Council who was not fully alive to the gravity of the present crisis, to the sacredness of the cause which the Government had advanced for raising fresh taxes, and to the obligation resting upon himself, as upon the community at large, to assist the Government in the discharge of this difficult and disagreeable task. The Government of India had performed a noble work; and whatever differences of opinion might exist as to details, there could be but one opinion as to the humane and benevolent motive which actuated it in throwing open the national treasury for the salvation of the lives of the famine-stricken millions, the devotion and self-sacrifice with which His Excellency the Viceroy headed the famine campaign when it was at its worst, and the indefatigable industry and uncomplaining patience and

perseverance with which one and all engaged in this mission of mercy had fulfilled their appointed duties. The people of India felt profoundly grateful to the British Government and to the great British nation, which had manifested its sympathy with the suffering subjects of the Queen in India by a spontaneous outburst of national charity, the like of which was not known in history. Remembering these circumstances, there could hardly be any section of the Indian community which would not cheerfully bear its legitimate burdens to meet the vast expenditure which had been incurred in coping with this national calamity.

There were, as the Hon'ble the Finance Minister said elsewhere, two courses open to Government for meeting the famine expenditure—by reducing expenditure, or by raising fresh taxes. He was one of those who thought that the first was perfectly feasible, but it required time, consideration, and determination. His Honour the President lately indicated in another place the directions in which economy might be justly and safely enforced; and so long as there was the slightest room for retrenchment, the Government would not be true to itself, to the millions whose destinies had been committed by a beneficent Providence to its charge, and to the Crown which it represented, to let slip any opportunity for effecting it. A penny taken from the people, where it could be saved, was, he respectfully submitted, a penny taken wrongfully. But, as he had said, economy, though perfectly feasible, could not be effected in a day, and in the meantime money must be had. Additional taxation had thus become inevitable. But it would have been gratifying to the people if the Government, while laying new burdens upon them, had given them an assurance that they would be temporary—that they would be remitted say at the end of three or four years, when the necessary retrenchments had been made. If the rules of this Council would permit him, he would suggest that the Council, while recognizing its duty to respond to the call of the Government of India to provide means for additional revenue, should

urge upon it with due emphasis the imperative necessity of enforcing economy wherever practicable in justice to the tax-payers.

He now turned to the proposed scheme of taxation and the mode of its application. He at once admitted that the trading and professional classes did not contribute to the necessities of the State in proportion to their means or to the benefits which they had derived from British rule. He had, he confessed, a repugnance to direct taxation in this country, because, as he humbly conceived, it was not suited to its circumstances; but he could not deny that he could not think of any mode of indirect taxation by which the trading and professional classes could be successfully reached and the revenue would be productive.

As regards the Bill before the Council, he must, in justice to the hon'ble member in charge of it, say that it had been prepared with great care, and that its leading object had been to produce a maximum of revenue with a minimum of oppression. Although the hon'ble member had informed the Council at the outset that the Government of India was not disposed to sanction an income-tax, the proposed license-tax was to all intents and purposes a rough income-tax. It was true that there would not be that inquisitorial inquiry incidental to assessments under an income-tax, but the schedule had been so devised that a Collector in assessing persons must have regard to the earnings of the assessee. In fact, in the revised Bill which had been circulated, a section had been introduced with a view to prevent abuse of power, providing that no person should be assessed at a higher rate than 2 per cent. upon his earnings. So, however we might frame a license-tax, it could not but have the appearance and the character of a rough income-tax; and if there was to be an income-tax in some form or other, perhaps it would have been better to have it in the right form. He could not deny that the schedule as framed distributed the incidence of taxation very unequally. The maximum figure was Rs. 200, which at the rate of 2 per cent. covered incomes of Rs. 10,000 annually. Now, all persons having

profits or earnings from any trades, dealings, or industries above Rs. 10,000 would pay Rs. 200 annually ; so that the higher classes of merchants, bankers, and mahajans would be assessed at an almost nominal sum. On the other hand, on coming down to the minimum, we found that any persons who had an income of Rs. 50 per annum, or a little over Rs. 4 per mensem, would be assessed with a 2 per cent. tax, although the amount he would have to pay—one rupee—would be very small. Now a person with Rs. 4 per month barely lived from hand to mouth. In fact, his existence was a struggle, and yet he would be called upon to pay one rupee per annum ; while all persons who earned from any trade or dealing more than Rs. 10,000 per annum would be liable to pay Rs. 200 per annum, which became less and less in proportion to their incomes as the amount of incomes increased. He for one was of opinion that in order to be just to the poorer classes of persons who would come under the Bill, the maximum should at any rate be raised to Rs. 500, which was the maximum amount of the license-tax of Mr. Massey in 1867.

Then he would suggest a revision of the schedule. The hon'ble member in charge of the Bill had anticipated him in saying that the gaps in the grades or classes were too wide. For instance, from Rs. 32 to 100. Well, an assessment of 2 per cent. upon an earning or income of Rs. 5,000 per annum would give Rs. 100 as the amount of the tax. On the other hand, an income of Rs. 1,600 per annum would carry, under class 3, Rs. 32, all incomes or earnings between Rs. 5,000 and Rs. 1,600 being rated at Rs. 100 as the schedule stood. This gap, he took it, was very wide. It would press very severely upon a very large class of people whose earnings fell within this limit. The same remarks applied to class 4, the fee of which was given at Rs. 10. A fee of Rs. 10 would cover an income of Rs. 500, and a fee of Rs. 32 would cover an income of Rs. 1,600 ; so that all incomes between Rs. 1,600 and Rs. 500 would be covered by a fee of Rs. 32. The gap here again was very wide. In fact, the practical effect of the schedule

as it stood would be that earnings of the humbler classes of traders and dealers would be subject to a much heavier duty than those of first class merchants, bankers, and mahajans. This was an inequality which he was sure the hon'ble member in charge of the Bill did not contemplate, and which he hoped, would be remedied in Select Committee. He was aware that this inequality could not be wholly removed under any scheme of a license-tax, for the incidence would not be in proportion to the amount of incomes ; but so far as it might be practicable it ought to be redressed.

He next turned to the mode of assessment. In the first place the Collector was required to prepare lists of all persons liable to the tax. The Collector would be assisted by municipalities and chowkidari unions in the preparation of these lists. The Collector would have the power of compelling municipal committees and unions to furnish him with returns. He might adopt these returns or he might not. Where the agency of the municipality or chowkidari union was not available, the Collector might employ his own agency to prepare these lists. He would then publish these lists, or cause so much of the lists to be published in certain villages as might be necessary, and if a person within 30 days did not file an objection, the assessment entered in the list should be considered final. If any assessee objected the Collector would decide, but it was not stated whether the objection was to be on plain or on stamped paper. No appeal was to be allowed from the decision of the Collector. The system, so far as he could judge, was simple and speedy ; but he thought it would give greater satisfaction to the people if provision were made, in some form or another, for an appeal. Under Mr. Massey's license-tax an appeal was allowed from the decision of the Collector to the Commissioner of Revenue. It struck him that the circumstances with which they had to deal would not admit of an appeal to the Commissioner in all cases ; for if it was made obligatory on the Commissioner to hear appeals from assessments in all cases, he was afraid that that officer would not find time for

other work. But as the Bill provided that municipalities were to prepare returns for the Collector, might not the object be attained by allowing the objector to file his objections, in the first instance, before the Municipal Commissioners or a bench of Commissioners, and if he was dissatisfied with their decision, he might be allowed to appeal to the Collector? One appeal he thought would be desirable for many reasons. In the first place, if it was the District Collector who was to do all the work with his own hands, it would be a different thing altogether; but as the Bill provided, and as it might be well imagined, the District Collector could not have the necessary time for the performance of the details of the work; the details would necessarily devolve upon the Deputy Collector, or some other subordinate officer whom the Collector might nominate. Now, the Deputy or the Sub-Deputy Collector might be very naturally desirous of showing as good a financial return as he could, and in his zeal for revenue he might be led to sacrifice justice. But if an appeal was allowed from the decision of the assessing officer to the District Collector, there would be less room for injustice. Even in Calcutta, under a vigilant public press, and with a public which was well able to take care of itself,—even here, he said, an appeal was allowed from the assessment of the Chairman in license cases to a bench of Commissioners; and if there was necessity for an appeal in a place like Calcutta, such necessity certainly existed in a much greater degree in the mofussil. He had incidentally alluded to the question of stamps, and he was not unaware that this Council had no power to interfere with the stamp duty; but he submitted it would be exceedingly hard if an objector, who was assessed under the last class at Re. 1, or under class 6 at Rs. 2, was made to file his application on a stamped paper of eight annas. Perhaps the Government of India would not refuse to consider this matter if a proper representation was made on the subject by the local Government.

He then found that sections 25 and 27, particularly the former, provided for a sort of *hukamnamah* to municipalities to pay

in the full amount of the tax whether realized or not. It did not say that the amount of the tax as realized should be paid into the Collectorate, but that within a certain time a certain amount must be paid in, and if it was not paid in under section 27, Government would have the power of deducting the amount from any fund or funds standing at the credit of the municipality. Now such a provision, he was afraid, would hamper the action of municipalities. They were charged with the duty of preparing lists, then of making assessments, then of collection, and even if the full amount was not collected, they would have to make it good. And what was the consideration they would receive? Not even the expenses incurred in realizing the tax: for if he understood section 27 aright, it provided that the Commissioner and Magistrate might appropriate any sum the municipality might have at its credit to defray any sum leviable from it under section 25. He did not clearly understand this part of the section, whether it meant that the municipal revenues might be applied to the payment of the tax, realized or not, or whether the same might be appropriated to the defrayal of the cost of assessment and collection, if any. He thought that municipalities ought to be allowed the necessary charges for assessment and collection of the tax, and that they should be required to pay in the amount of the tax as realized, and not whether realized or not.

Then he turned to the schedule for Calcutta. He was afraid that the imposition of this tax on persons engaged in trades and professions, particularly on persons coming under the lower grades, would press very severely on them. If it were open to him, he would suggest that the lower classes in this schedule should be knocked off, so that only the richer class should be made to pay. He knew from his own experience, both as a Municipal Commissioner and as an Honorary Magistrate, that the license-tax did press very heavily on the poorer classes of traders in this town, particularly the occupiers of stalls in markets and itinerant dealers, and other persons in that position. But the Calcutta schedule

suggested another consideration. In this schedule persons, who were usually denominated as professional persons were included within the scope of taxation; for instance, barristers, attorneys, pleaders, physicians, and the like. Now, if it was consistent with the object of the Bill to include these professional persons within the scope of taxation, he did not see any reason why the same principle should not be extended to persons pursuing professional avocations outside Calcutta, in mofussil towns and stations. If any class of the community had thriven more than another under British rule, it was, he must confess, the legal profession, and he could not see any reason why a pleader of the High Court should be taxed, and the pleader of the district or subordinate Court should not be taxed. If it was the duty of the community to bear the charges of meeting the famine expenditure which had been lately incurred, or which might be hereafter incurred, he thought those classes which were able to bear the charge most easily, such as the legal and medical professions, which had prospered most under British rule, should be called upon to pay.

The last point was the mode of application of the revenue, which would be raised under the Bill. His friend the hon'ble mover of the Bill had last week told the Council that this measure was the final outcome of the policy of decentralization which was inaugurated in 1870. He understood the policy of decentralization to be that the local Government should have the liberty to apply its own resources to the benefit of its own province. This Council had some discussion on this point last year when the Public Works Cess Bill was before it. He then took the liberty to point out to the Council the great injustice which had been done to Bengal from the early connection of the British Government with it, inasmuch as the revenues of Bengal had been to a great extent applied to the benefit of other provinces, and local works of permanent utility and local improvements had been absolutely starved. His Honour the President was then pleased to point out that whatever might have been the policy in the past, it would

be changed in the future; that if Bengal had been the milch-cow before, it would now be allowed to use its own milk; and on that ground the Council was asked to agree to the Provincial Public Works Cess Bill, because the principle of the Bill was that the revenue derived from it would be applied to works which were in existence, or which might be constructed within the territories subject to His Honour's government. He could understand the object of that Bill so far. But in this Bill it was expressly provided that the revenue derived under it might be applied at the discretion of the Governor-General in Council either to famine purposes connected with these provinces, or with the other provinces of British India. Now, he respectfully and humbly contended that that was not carrying out the policy of decentralization in the spirit in which it had been promulgated, and in the way in which it had been hitherto understood, and in which it had been interpreted in this Council last year. It might be said that the famine expenditure of 1877 was fairly chargeable to the whole empire, and that Bengal as a part of the empire ought to bear a portion of that expenditure. He bowed to that opinion. But what was the amount of the famine expenditure? The total expenditure on account of the Bombay and Madras famine came to about $9\frac{1}{2}$ millions sterling, and if that amount were to be raised by means of a loan, the interest-charge upon it would not exceed 40 lakhs of rupees; and if Bengal were called upon to bear a fair proportion of this charge, its share would be considerably less than the revenue to be derived under this Bill. The Government of India had been pleased to remit two annas in the salt duty in Bengal. His Honour had rightly pointed out that this sacrifice of revenue was a concession to sentiment. In Bengal they did not in the slightest degree feel the pressure of the salt duty, but a two-anna remission of the salt duty involved a sacrifice of about ten lakhs of rupees per annum, and the relief per head would scarcely come to one pice per annum. Now, if the Government of India had transferred these two annas to the local Govern-

ment, perhaps the proceeds would cover Bengal's quota for interest-charge. But let that pass. He found from the statement made by the hon'ble member in charge of the Bill that the produce of the license-tax would be somewhere about 40 lakhs of rupees. Even if they had paid ten lakhs of rupees as their quota for interest, there would be to their credit 30 lakhs of rupees; and if they applied this surplus to purposes which would benefit them, the taxpayers would have some satisfaction. But the Bill provided that the Governor-General in Council might apply the revenue to the benefit of any other province. Where then, he asked, was that local freedom, that local self-reliance, on pretext of which they were asked to impose these local taxes? Within the last seven years Bengal had been burdened with a local taxation of about a million sterling. The road cess, the provincial public works cess, and the present license-tax would yield in the aggregate about a million a year, and all this heavy taxation had been imposed on the assumption that Bengal alone would benefit by this system of taxation. In fact, when His Grace the Duke of Argyll sanctioned the present scheme of local taxation for Bengal in his road cess despatch, he remarked that he sanctioned it because he hoped that the benefits to be derived would be direct, immediate, and palpable. But the tendency of this taxation had been simply (he spoke under correction) to relieve the Imperial Exchequer. Roads in Bengal were hitherto maintained from Imperial Funds, and they were now for the most part maintained from the Road Cess Fund; railways and canals were hitherto maintained from Imperial Funds, now they were to be maintained from the Provincial Public Works Cess Fund; and now that another heavy tax was to be imposed, although no works were specified for the application of the tax, they were told that the revenue might be applied just as the Governor-General in Council might think fit. He admitted that in financial matters this Council had no independence; that it must carry out the orders of the Government of India on that subject. But if the Government wished to be consistent in its policy

of provincial finance, he thought they had every right to ask it to allow them to spend the revenue for the benefit of their own province. He did not think that the members of the Council would accept the position that they sat there simply to register the decrees of the Government of India for the imposition of taxes, without satisfying the people that the taxes proposed to be levied from them would be applied to their benefit. He would therefore suggest that due provision be made in this Bill, that after paying whatever sum the Government of India might call upon Bengal to pay as fair and equitable for the interest-charge on account of the famine loan, the surplus might be applied to works or purposes which might be considered needful as an insurance against famine in Bengal.

SETTLEMENT OF THE RENT OF LANDS IN PRIVATE ESTATES.

The Hon'ble Baboo Kristodas Pal moved at a meeting of the Council held on the 23rd March, 1878, for leave to introduce a Bill to provide for the settlement of the rent of lands on the application of landholders or ryots.

THE HON'BLE BABOO KRISTODAS PAL said that in January last, when his hon'ble friend opposite (Mr. Reynolds) introduced the Bill to define and limit the powers of settlement officers in respect to the enhancement of rent, he ventured to make the following remarks :—

"The object of the Bill was to reduce litigation, and he thought that the provisions of the Bill might fitly be extended to Wards Estates and Attached Estates in the hands of Government, inasmuch as these estates were practically administered by the Collector during the minority of the ward or during attachment. He would also suggest that where the zemindar should be willing to avail himself of the agency of the Revenue authorities in making settlement, he should be allowed the benefit of such agency, provided he paid the cost. In all these cases the right of the ryot to contest the decision of the settlement officer in the civil court should of course be allowed."

His hon'ble friend afterwards wrote to him to say that the

Government was willing to accept his suggestion, but that a separate Bill should be introduced to give effect to it ; this was the origin of the Bill which he proposed to introduce.

His object was to proceed on the lines of the Settlement of Government Estates' Bill, which had been passed by this hon'ble Council, and which now awaited the assent of His Excellency the Viceroy. The proposed Bill would be simply permissive. It would rest with the zemindars and ryots to avail themselves of the machinery to be provided by this Bill, should they like to do so. In one respect the Bill would take a broader ground than its predecessor ; for, under the latter, the Government as the landlord would be alone competent to move the machinery ; whereas under the former, both zemindar and ryot would be at liberty to apply for the enforcement of the law. Then in the case of the Government the settlement officer would be the servant of Government ; whereas in the case contemplated by this Bill, the settlement officer would be a third party, wholly unconnected with the landlord or tenant. The principles on which the settlement was to be made must be governed by the provisions of Bengal Act VIII of 1869. These provisions were in his humble opinion vague, uncertain, and in some respects unworkable ; but he did not propose to interfere with those provisions, as the Government had not yet made up its mind respecting the principles on which enhancement should be made. Keeping, then, within the four corners of Act VIII of 1869 as to the principles on which enhancement and abatement of rent should be made, this Bill would provide for a sort of amicable settlement of rent disputes with the intervention of the revenue officer. If a zemindar or ryot should feel dissatisfied with his decision, either party would be at liberty to institute a regular suit in a civil court for the reversal of that decision. But his own impression was, and he might state that it was shared by those, both officials and non-officials, who were competent to form an opinion on the subject, that the intervention of the Deputy Collector in an amicable spirit might in many cases throw oil over

troubled waters, and thus prevent harassing litigation in the civil court, which was ruinous to both the landlord and tenant.

He did not wish to occupy the time of the Council on the present occasion by describing the details of the Bill, which would be very few, but he would notice them at the next stage of the Bill. At present he simply moved for leave to bring in the Bill.

The Hon'ble Baboo Kristodas Pal moved at a meeting of the Council held on the 30th March 1878, that the Bill to provide for the settlement of the rent of lands on application of landholders or ryots be read in the Council.

At the last meeting of the Council, the HON'BLE BABOO KRISTODAS PAL explained the object of the Bill which he then obtained leave to introduce. The details of the Bill were very few. As the present Bill proceeded upon the lines of the Bill which had already been passed by the Council defining the powers of settlement officers in regard to the enhancement of rent in Government Estates, he had endeavoured to accomplish his object by making the few provisions of this Bill fit into the provisions of that Act. In the first place, he proposed that a mouzah should be the minimum limit of area for operations under this Bill, and that the mouzah should correspond with the same recorded in the Survey Register. Then it was provided that on the application of a landholder or a body of landholders, or of sharers registered under section 10 or 11 of Act XI of 1859, or (where the property was joint or undivided) on the application of landholders whose interests represented three-fourths of the property, the Collector should appoint a Deputy Collector for the settlement of the rent of the land. When he referred to a body of landholders, he meant petty landholders who might have definite shares in a mouzah, but might not hold a mouzah wholly. In these cases, he thought they ought to be allowed to combine and

move the machinery of the law if they liked. In the same way ryots would be competent to move the Collector to appoint a Deputy Collector for the settlement of rents, if three-fourths of their body combined to make an application to the Collector. Then it was enjoined that, if all the shareholders in a mouzah did not join in the application, those who might refuse to join would not be entitled to enjoy the benefit of the law ; if they wished to enhance the rent they must go through the usual course of a civil suit, and be prepared to bear the cost of harassing litigation. Then section 5 authorized the Deputy Collector to exercise the necessary powers for settlement and also for measuring land, as far as practicable, in accordance with the provisions of Bengal Act VIII of 1869. Section 6 provided that, where there might be a dispute as to the person liable to pay rent, the Deputy Collector should hold an enquiry and declare the person actually paying rent to be the person liable, or he might declare summarily who was the person liable to pay rent, subject to a suit in the civil court ; so that, if an injustice were committed by the summary award, there would be room for redress. There would be thus two things for the Deputy Collector to determine—firstly, who was to pay the rent ; and secondly, what amount.

Then the rent fixed by the Deputy Collector, unless reversed by the decision of a civil court, should have currency for ten years, so that the land might have rest for that period.

As the proceedings under this Bill would be initiated on the application of landholders or ryots, the cost should of course be borne by the applicants ; that was to say, the whole of the cost of measurement, and so much of the salary of the Deputy Collector as would cover the time *bonâ-fide* spent in the conduct of the settlement. It would be necessary for the Board of Revenue to frame rules to calculate the cost of the proceedings, and in that view the Board would doubtless require the Deputy Collector to keep a diary, so as to ascertain what time he had devoted to this particular work, for it would not be fair if only one hour in the

day was devoted to the work, to debit to it the whole salary of the Deputy Collector for that day. The Board, he proposed, should lay down rules on this subject which would be fair and equitable. At the same time, he thought the Government might see fit to remit the costs in special cases in which the public interests might require a re-settlement of an estate.

The provisions for the enhancement or abatement of rent were contained in sections 9 and 10 of the Bill. It was not proposed to vary the existing principles in any way. He wished he could suggest the modification of some of those principles which were vague, indefinite, and unworkable; but, as he had observed at the last meeting of the Council, the Government had not made up its mind on that subject, and he would not therefore tread upon that forbidden ground. He should, however, observe that this Bill did not pretend to solve the problem of the enhancement of rent: so long as the principles upon which rent was to be enhanced were not definitely and satisfactorily settled, that problem could not be said to be solved. But if the Council thought fit, that much vexed question might be taken into consideration.

The remaining section followed those of the Bill already passed by the Council with regard to the settlement of Government Estates, and he need not therefore enter into them. He did not propose that the Bill should be passed in a hurry. It would be published and forwarded to the Revenue Officers of the Government for opinion, and next winter the Bill would be revised in the light of the opinions which it was hoped would be received from both official gentlemen and the public in general. He concluded by remarking that he was indebted to his hon'ble friends Messrs. Reynolds and Mackenzie for the material help they had given him in settling the details of the Bill.

RECOVERY OF RENT.

The Hon'ble Mr. Mackenzie moved at a meeting of the Council held on the 11th January 1879, that the Bill to provide for the more speedy realization of arrears of rent, and to amend the law relating to rent, be read in the Council.

The HON'BLE BABOO KRISTODAS PAL said that when leave was asked to introduce this Bill by his hon'ble friend, he took the opportunity to express his satisfaction at the proposed legislation. He believed it was admitted on all hands that an amendment of the procedure for the trial of rent suits was a pressing necessity, and that the increased obligations which had been imposed on the landholders for the collection of the cesses had greatly aggravated that necessity. The Government for the last four years had been promising to introduce a Bill upon the subject, and the present measure he took to be in fulfilment of that promise. His hon'ble friend had just explained that the detailed provisions and the wording of the Bill should be discussed in Select Committee ; at this meeting they should consider only the leading principles of this Bill. He might say at the outset that he generally concurred in the provisions of the Bill, and although some of the details might be open to objection, he thought the Bill, as it had been drafted, was well calculated to fulfil the object aimed at. There was, however, one important principle to which he was sorry he could not give his adhesion—it was the transferability of the right of occupancy. He might remind the Council that, when the Bill was originally drafted by the local Government, there was no provision authorising the general transfer of the occupancy right. The Government was of opinion that some such provision would be beneficial to the tenantry, but in deference to the opinion of some zemindars, and also of the Government of India, the section was modified, and the sale of the occupancy tenure was limited to execution of decrees for arrears of rent. Subsequently the Government having taken the opinion of ex-

perienced revenue officers, had come to the conclusion that the recognition of the general transfer of the occupancy right would prove beneficial to both landlord and tenant, and so in the Bill laid before the Council that provision had been inserted. He must do the Government the justice to say that it had approached this subject with the utmost care and thought. He need hardly say that the question was one the importance of which could not be exaggerated; it affected the vital interests of the agricultural population of Bengal, and it was a question regarding which much might be said on both sides. He confessed that he approached the subject not without great diffidence and hesitation. When he observed that by far the greater portion of the able and experienced revenue officers consulted by the Government, many of the zemindars who had a direct interest in the question, and His Honour the President, thought that a measure of this kind would be beneficial to both landlord and tenant, he could not conceal that he felt great diffidence in expressing his dissent from their opinion. But as he honestly believed that, however benevolent and praiseworthy the object of the Government, the proposed measure would do more harm than good, he solicited permission to state his objections from the ryot's point of view, that was to say, how it would affect the interests of the ryot, although he did not wish to overlook the zemindar's point of view. He had carefully examined the papers circulated in connection with this Bill, and had also perused the very able and lucid speech with which his hon'ble friend introduced the Bill, and he had thus formulated the grounds upon which the measure was based as he gathered them from those documents:—

1st.—That the proposed measure would give permanence and security to the ryot's tenure.

2nd.—That it would raise the market value of the tenure.

3rd.—That it would hold out to the ryot an incentive to improved cultivation, and give him a direct interest in the improvement of his land.

4th.—That the improved financial position of the ryot would enable him to raise money on better terms.

5th.—That it would relieve him from dependence upon the landlord and the mahajun.

6th.—That it would introduce amongst the cultivating classes men with better means and knowledge for the cultivation of the land and the protection of their rights.

7th.—That it would enable unfortunate ryots to sell their tenures, and with the sale proceeds to start in business more suitable and remunerative.

8th.—That the right was not new ; that it was recognised by custom, to which the proposed measure would only give legal sanction.

9th.—That the transfer being confined to the cultivating classes, and subletting being prohibited, which, however, was not the case now, the actual cultivator of the soil would not suffer.

10th.—That as the value of the tenure would increase by being declared saleable, the zemindar would not suffer, but would find facilities for the recovery of rent in case of default.

He hoped he had fairly summarised the grounds on which the Bill was founded, and he proposed to offer a few remarks in regard to each of them. The first ground was that the Bill would give permanent security to the ryot's tenure. Now he thought, and any one who would carefully read the provisions of Act X of 1859 would allow, that as long as the occupancy ryot paid his rent his tenure was secure ; and as under the law the tenure was heritable, that was to say descendible from generation to generation, the occupancy ryot also enjoyed the element of permanence. It was not proposed in this Bill that the occupancy ryot's rent should not be liable to enhancement, or that his liability to regular payment of rent should be in any way relaxed. All that was now

proposed was that the ryot should have the right of alienating his property at his own will for his own requirements, or in satisfaction of the rent of the land. He did not therefore see how this new provision would in any way give greater permanence and security to the ryot's tenure than what already existed under the present law. Surely it would not be pretended that in the right to sell consisted permanence and security, and not in the right to possess and inherit. So much then for the contention that this Bill would give greater permanence and security to the ryot than he now possessed under Act X of 1859.

The second point was that it would raise the market value of the tenure. He did not deny such a proposition. Certainly, if a tenure could be brought to market it would fetch a value. At present, whatever might be the custom in certain parts of the country, under the law an occupancy tenure was only heritable and not transferable, and as it could not be thrown upon the market, it had not a market value ; so that if the occupancy tenure was brought to market for sale, it would certainly have a market value, and as the exchange of land would progress, the market value was likely to rise ; but would this rise in the market value of the occupancy tenure compensate the attendant evils which he was afraid the ryot would be exposed to ? Would the sale proceeds of the occupancy tenure be a sufficient compensation for the ruin which would seize the ryot by the mere fact of the loss of his tenure ? The people of this country, it was well known, had a deep attachment to the soil, and any facilities given to the sale of landed property could not justly be considered as conducive to their best interests and welfare. He was fully alive to the maxims of political economy as to the advantages of the circulation of capital. But they must deal with facts and not with theories ; they ought to look to the real circumstances of the country, the sentiments and feelings of the people, to their every day life, to their habits and thoughts ; and if it was found that the people were so much attached to the land, and that the loss of

the land under the facilities offered for sale would deprive the ryot and his family of the means of obtaining their livelihood, he did not think that the Legislature ought to take a step which would hasten such an undesirable and unfortunate result.

The third point was that it would hold out to the ryot an incentive to improved cultivation and give him a direct interest in the improvement of his land. Now, hon'ble members were aware that the agriculturists of this country did as much as they could for the utilization of their lands ; that they had a keen sense of what was remunerative to them, and that if they found any new staple likely to be more profitable than the old staples to which they were accustomed, they did not hesitate to take to it. This had been seen in the case of jute and seeds, and latterly in the case of tea. Hon'ble members could not be unaware that native gentlemen had lately directed their attention to tea, seeing the large profits made by Tea Companies. Knowing, then, as they did, that the agriculturists in Bengal were fully alive to their own interests, it was hardly likely that they would neglect them, because they had not the right to transfer their tenures ; the occupancy ryot had that interest in the land which fully secured to him the fruits of his own labour. He could now appropriate to himself the whole of the profits he made from his land, subject to the payment of rent, or to the adjustment of rent in case of enhancement. But exclusive of rent, whatever he earned from his land went to his own pocket, and he did not think that the transferability of the ryot's tenure would make any alteration in his position in that respect. It might be said that the ryot was impecunious, that his resources were limited, and that he could not carry out improvements for want of capital ; that, if his tenure were declared saleable or transferable, he would have facilities for raising money upon it, and thus improving his land. He was prepared to believe that if facilities be offered to the transfer of land, the ryot would get an advance with greater ease ; but it was open to question whether such facility to borrow money would

prove in the end advantageous to him or not. Improvements which would materially alter the character of the cultivation in the country could not be effected with the small capital at the disposal of the ryot. That required a large outlay, and in so far the ryot's exertions could not prove much successful. As for small improvements, he thought that, where the ryots cared for such improvements, they were able to effect them without being under the necessity of encumbering their land : indeed, if it came to this, that improvements could not be effected without the transfer of the land, he would rather have no improvement than give the ryot facilities to improve himself off his land.

The next point was that the ryot would have a direct interest in the improvement of the land. He had already pointed out that the ryot did now possess a direct interest in the improvement of his land, and *en passant* he might remark that according to custom in different parts of the country the transfer of the occupancy tenure was now going on, and he would ask how far had the ryot availed himself of the custom in effecting improvements ? If the intention of the proposed measure was to assist the ryot in raising capital for improvements, he hoped his hon'ble friend was prepared to show that under the operation of the custom already prevalent in several parts of the country the ryot had been able to effect those improvements which it was the object of this Bill to help him to effect.

The fourth question was intimately connected with the third, that the Bill would improve the financial position of the ryot in enabling him to raise money on easier terms. In discussing the third point, he had in a manner anticipated the fourth. He would only say that the greater the facilities offered for obtaining loans of money, the greater would be the facility afforded to the ryot to encompass his own ruin. He need hardly remind hon'ble members that the tendency of legislation in the other provinces had been to restrict as much as possible the sale of land for debts. Here, on the contrary, it was proposed to offer as much facility

as possible for the alienation of land either in execution of decrees or by private agreement. He considered this tendency in Bengal legislation not consistent with what was going on in other parts of the country, not to say that it was calculated to work most mischievously.

The fifth point was that it would release the ryot from dependence upon the landlord and the mahajun. He confessed that he did not clearly understand this point. If it was contended that the recognition of the transferability of the occupancy tenure would so much raise the ryot above want that it would release him altogether from the books of the money-lender and of his landlord, who was sometimes also a money-lender, he could not subscribe to that opinion. It might release the ryot in one way ; it might release him from dependence upon the landlord, because he would be sold out in case of debt, but he did not believe that that was a consideration which had influenced the introduction of this clause in the Bill.

The sixth point was that it would introduce amongst the cultivating classes men with better means and knowledge for the cultivation of the land and the protection of their rights. He did hope with his hon'ble friend opposite that primary education, which was now spreading rapidly amongst the masses, would gradually enable the ryots to better understand their duties and to protect their right and interests more effectually than they now did ; but he hoped his hon'ble friend did not consider that the present cultivators of the soil should be supplanted by another body of men who did not now cultivate the soil. If the present cultivators were ousted from their lands, what would be their means of subsistence ? How would they live ? Their position then would be simply one of serfdom ; they would be pauperised and reduced to serfage. It was certainly desirable, in the general interests of society, that the system of cultivation should be improved ; but he believed it would be acknowledged by all right-thinking men that the means to that end should be through the

education and advancement of the existing body of cultivators, and not by supplanting them by a class of small capitalists,—a process which would leave them no alternative but to throw themselves upon the resources of the State in times of difficulty and distress.

The seventh point was that it would enable unfortunate ryots to sell their tenures, and with the sale proceeds to start in new business more suitable and remunerative. This being an agricultural country, the people looked up to agriculture chiefly as a means of livelihood. Agriculture did not require much labour or capital; with a pair of bullocks and a plough, and with his own labour, the ryot could cultivate the soil and make a living for himself and his family. If he had recourse to either trade or industry, he must bring more capital, more labour, and more intelligence. He did not think that the bulk of the agricultural population were in a position to take to other callings, and in the long run he thought they would find it more economical and remunerative to follow their present occupations than to have recourse either to trade or industry. Men who would not succeed in agriculture he might say in nine cases out of ten would not probably succeed in any other occupation at all; and it was therefore vain to hope that men who had failed in agriculture would, with the sale proceeds of their tenures, be able to start successfully in any other path in life. He need hardly say that when a man had failed in agriculture his tenure would be then probably not worth much, because it was most likely to be burdened with encumbrances and very little would be left to him after satisfying his creditors; so that, in starting in new business under the circumstances mentioned, his capital would be small, and with such small capital it would be idle to expect that he would be able to enter upon a new career successfully. Accordingly the advantages supposed to be conferred on the impecunious ryot by the transferability of his tenure appeared to be wholly illusory.

The eighth point was that the right proposed to be recognised was not new, that it was already in existence according to

custom, and that the proposed measure would simply give legal sanction to it. He did not deny that according to custom the transfer of occupancy tenures was taking place, of late years in different districts. On this point there was, however, a wide divergence of opinion. In the first place the High Court, by its Full Bench rulings, had held that an occupancy tenure was heritable, but not transferable. As for custom, it did hardly apply to the modern occupancy ryot, who was the creature of Act X of 1859. The custom referred to in that Act must have had antecedent existence, but the occupancy tenure, founded on twelve years' continuous possession, had had no such existence. The custom upon which reliance was placed was applicable to *khoddkhast* tenures of old, and not to modern occupancy tenures; but for some reason or other, under colour of that custom, transfers, he admitted, were going on. It might, however, be fairly asked that if under custom the transfer of the occupancy tenure was already recognized, why was it considered necessary to give legal sanction to it. The answer probably would be that there was uncertainty; that the custom was not everywhere the same; that the rulings of the Courts had not been the same; and that consequently it was desirable and expedient to give legal sanction to that custom. For his own part, if he were permitted to say it, he would suggest that this custom should be correctly interpreted, and that the absolute sale of ryottee tenures should be stopped at once. From the days of permanent settlement it had always been a moot question whether a person occupying the position of *khoddkhast* ryot had the power of sale. Practically, however, it was admitted that he enjoyed the right and power of sale, but the *khoddkhast* ryot and the modern occupancy ryot were two distinct individuals. As his hon'ble friend himself said in introducing the Bill, *khoddkhast* ryot had an occupancy right from the days of perpetual settlement; but the mere squatter for 12 years was a ryot of yesterday: he had therefore no traditional right and claim on the ground of natural justice. But

Act X of 1859 had confounded the two, and had, by conferring the right upon the mere squatter, done a grievous wrong to the resident *khoddkhasht* ryot of 80 years ago. This Bill, however, made no distinction between the *khoddkhasht* ryot of old and the occupancy ryot of yesterday ; it, in fact, gave the right of transfer to both, and, by doing so, he for one thought that it offended one's sense of natural justice.

He now came to the ninth point, which was that the transfer being confined to the cultivating classes, and subletting being prohibited, which was, however, not the case at present, the actual cultivators of the soil would not suffer. He must frankly admit that the hon'ble framers of the Bill had taken the utmost care to minimise the evils of the proposed measure. By confining the occupancy right to the *bonâ fide* cultivator, this Bill would give effect to the original intentions of the Legislature in creating the occupancy right. He humbly thought that when that right was conferred by Act X of 1859, it was intended solely for the benefit of the actual cultivators of the soil ; but unfortunately by the use of one word "held," wide scope had been given to the provision of the law, and this right, which was intended to be confined to the actual cultivator, had been held to apply to persons in the position of middlemen.

With the decisions of the High Court favouring subletting, the occupancy tenant of these days had become a middleman, a mere rent receiver, and the result had been that the actual cultivator had been the greatest loser. It was the sweat of his brow which supported the whole body of the superior holders, from the occupancy jotedar to the zemindar in the highest link of the chain, and the subletting system, it could not be denied, was detrimental to the best interests of the peasantry. The hon'ble framers of the Bill had therefore done well by confining the occupancy right to the cultivating class, and also by restricting sale to that class, and more substantially so by prohibiting subletting. But the question was whether the Bill, as it had been

framed, would really keep out the small capitalist class—he meant the mahajans and petty traders—from ousting occupancy tenants from their tenures. A cultivator was defined to be he who cultivated the land with his own hands or by means of hired labour. Now that term “hired labour” left, he thought, a very wide door open. He did not mean that hired labour could be dispensed with in the economy of agriculture in this country. Women, children and diseased and infirm men could not be expected to work with their own hands; there were persons who were by rules of caste prohibited from touching the plough, and they must employ hired labour; but when hired labour was permitted, would not the man whom it was sought to keep out come in and cultivate the land? Would not the money-lender come in? It might be said that hired labour was not always remunerative; that the money-lender would not find the employment of hired labour so profitable as to have recourse to it; but there was the system of *bhagjote*—of cultivation in common—between the holder of the tenure and the producer. The usual arrangement was that the person giving the labour and cultivating the land took half the produce and left the other half to the holder of the land. That arrangement would in effect be the employment of hired labour for the purpose of cultivation. The Bill as framed did not mean to discourage or discountenance that system of cultivation. Then it was well known that the *benamee* system prevailed very largely in this country, and rival zemindars, he was afraid, would not be slow to take advantage of the new law and purchase occupancy tenures *benamee* with the view to annoy and harass their rivals. In that way social forces would be brought into play, which might deprive the actual cultivators of the land by which they derived their sustenance; so that, notwithstanding all the safeguards which had been introduced in the Bill, he doubted whether the land would be really kept in the hands of those who now held it if a general recognition of the transfer of the occupancy tenure were sanctioned by law.

The last point was that as the value of the tenure would rise by being declared saleable, the zemindar would find facilities for the recovery of rent in case of default. Now, he admitted that if the occupancy tenure had a value, the sale of it for rent would satisfy the demand of the zemindar; in that respect he would acquire a facility in the recovery of rent. But had he no other means for recovering his rent? From the earliest times the zemindar enjoyed the right of eviction. By referring to the laws of the permanent settlement it would be found that the right of eviction was inherent in the zemindar, and it was only to protect the occupancy or *khoddklast* ryot against arbitrary eviction that section 6 of Act X of 1859 was introduced; and the power of eviction was clogged in various ways. It might be said that the eviction of the tenant was a harsh and cruel measure. So it was in the abstract, just as the Sunset Law considered in the abstract was a harsh and cruel measure. But look at the practical effects of the Sunset Law! It had taught the zemindar punctuality, prudence, and providence; it had enabled the State to collect revenue with clock-work regularity, and yet there was the law which many theorists considered was a blot upon the statute Book, but so far as he was aware, the zemindars did not complain of it, nor did it practically do any harm to the landed interests. In the same way, if the present law of eviction were altered (at present there could be no eviction for default in the payment of rent except at the end of a year), if, in accordance with the provision for quarterly instalments, facilities for eviction in default of such instalments were given, the rent of the zemindar would be recovered with the same regularity and punctuality with which the revenue was realised by Government. It might be asked, would that measure benefit the ryot? If eviction was allowed, then the ryot would go out without receiving anything for the land which he would vacate; on the other hand, if the tenure were sold, the ryot would at any rate get something as a surplus from the sale proceeds after satisfying the arrears due. He admitted that; but

he held that if eviction were allowed for quarterly default, very few tenants would practically go out. The ryot would know that if he defaulted in the payment of his rent his tenure would be resumed, and thus he would lose all he had in the world, and he would therefore be very careful in meeting the landlord's demand, just as the zemindar now was ; the latter might beg or borrow, but pay the revenue he must ; and it was generally found that before sunset approached the revenue was deposited in the Collectorate. In the same way he was persuaded that if eviction were allowed, recourse to that remedy for default would become very rare, and so what might in theory be considered a harsh and severe measure would practically operate to the benefit both of the landlord and the tenant.

Having considered the different grounds upon which, as he conceived, the Bill had been founded, he would just glance at the official opinions upon which some stress was laid by his hon'ble friend in his speech at the last meeting of the Council. He had said already that by far the greater majority of the officials had supported the proposals of Government. But there was a residuum, consisting of some very able, experienced, and distinguished officers, who did hold contrary opinions on the subject. He found in the first place that the Collectors of Backergunge and Tipperah had expressed their opinions against the proposal which he had been discussing. In the report of the Board of Revenue he read—

“Both the Collectors of Backergunge and Tipperah are of opinion that the sale of occupancy rights to satisfy debts due by ryots should not be legalized. It would introduce all kinds of confusion. Mr. Barton thinks that in Eastern Bengal at least ryots need no further protection, nor further immunities, than they have at present. In many cases, as it is, the ryots are the masters and the zemindars the servants.”

Then Mr. Lyall said—

“It is doubted whether the occupancy right would, as assumed by Mr. Reynolds, be purchased in most cases by ryots of the same class and position as the former tenants.”

and so he thought it would go out of the hands of the present class of cultivators. Then Mr. Peacock, Commissioner of the Dacca Division, than whom he believed there was not in the service a more reasonable, moderate, and even-minded officer, did not advocate a general recognition of the transfer of the occupancy right, but would confine it only to the execution of rent decrees. He said—

“I am on the whole inclined to recommend that occupancy rights should be liable to be sold in execution of a decree for rent when the judgment-creditor applies for execution to issue against such right. It will then rest with the zemindar to adopt this course, if such a sale would be more convenient than the direct resumption of the holding, and not otherwise. As regards the sale by private agreement of such a holding, I see no objection to the ryot being allowed to do so with his zemindar's consent. This would prevent the latter's interests from being prejudiced in cases where he was opposed to such a sale, and, on the other hand, it would not debar such sales from being effected in cases where the zemindar was willing that this should be done.”

Such was Mr. Peacock's opinion, though he (BABOO K. D. P.) for one would not give the power to sell even with the zemindar's consent. Mr. Edgar, Deputy Commissioner of Darjeeling, wrote—

“It seems to me that the question of making occupancy rights transferable by private sale differs in many respects from that of making them liable to sale instead of to ejectment for arrears of rent. The latter, with proper safeguards against fraud on the part of the landlord, would be, I think, an unmixed benefit to the ryot and no injury to the zemindar, while I do not see how in practice it could have a tendency to transfer the land to undesirable classes. I have much more hesitation about the former measure.”

Then Dr. Field, an experienced judicial officer, and one who had studied the revenue laws with great care, held that the occupancy tenure should not be sold, except on certain conditions which he had himself recommended for the amendment of the law. And the last, though not the least, was Mr. Hodgkinson, late Collector of Moorshedabad and now Judicial Commissioner of British Burmah, who said—

“It is believed that to make the tenure saleable would (1) be an undoubted advantage to the ryot, and (2) on the other hand it would frequently be a convenience to the zemindar to be able to realize arrears of rent by the sale of the

tenure, instead of resuming direct possession of the land. I join issue with both these conclusions."

He then discussed the question at length, and incidentally remarked—

"The first feature of the change which will be made apparent to a body of cultivators, nine out of ten of whom are in debt, is the increased facility with which they can borrow money—a feature not calculated to arrest improvidence among an improvident class. The mahajun will then take care that no other feature is allowed to present itself."

This was a conclusion to which he (BABOO K. D. P.) endeavoured to draw the attention of the Council in his opening remarks. Then Mr. Hodgkinson pointed out another disadvantage which would flow from the general recognition of the transfer of the occupancy right. In paragraph 15 he said—

"In districts where industries are carried on by European or native capital, requiring for the production of the subject-matter of the industry an amount of land more or less under the control of the capitalist, there would be a great danger of his becoming a large monopolist of land in neighbourhoods where he required it, were occupancy tenures transferable. In the three principal indigo districts of Behar tenures would be bought up all around the factories, the good land put into indigo, the bad land made over to cultivators at comparatively high rates."

None knew better than the Hon'ble President what a struggle there had all along been between the indigo-planter and the zemindar for the acquisition of land for the cultivation of indigo. As had been justly pointed out by Mr. Hodgkinson, if this facility of acquiring the occupancy tenure were given, the indigo-planter and others who were engaged in manufactures of indigo and other staples would find a speedy means of buying up occupancy tenures. It might be asked how would the planter acquire the tenure, because he would not be a *bonâ-fide* cultivator; but the clause, which sanctioned the employment of hired labour would help him. He would employ hired labour and would come in the category of an occupancy tenant, and the great disadvantage to the ryot would be this, that where the zemindar and the indigo-planter were at loggerheads, the ryot had at least one person to protect him, either

the zemindar or the planter ; but when the ryot would come into direct contact with the planter, there would be no buffer between the two, and the ryot would be utterly helpless. He would not enlarge upon this point, because it had been so well brought out by Mr. Hodgkinson in his letter.

Now he had shown the Council what the balance of official opinion was on this question, and from what he had said it was clear how the case stood. The occupancy tenant was divisible into two classes—firstly, the *khoddkhast* or the old resident ryot ; and secondly, the modern occupancy tenant or the ryot of yesterday. The *khoddkhast* ryot had always an occupancy tenure ; the modern ryot had not. But the two had been lumped together. The right of transfer of the *khoddkhast* tenure was recognized in many cases in practice, though not distinctly recognized in law ; but the modern squatter who had been converted into an occupancy tenant was now proposed to be invested with the right of absolute transfer. The Bill did not make any distinction between the two, and perhaps it would be difficult to make a distinction. He did not wish to go into the equities of the question as to whether the modern squatter should be allowed to hold the occupancy right or not ; but viewing the whole agricultural population as one body, and looking to their actual circumstances, he was constrained to say that the proposed measure would have a most prejudicial effect upon them, as it would encourage them to incur debt, and ultimately to lose their tenures in order to satisfy their creditors. It was observable that the Legislature evinced the most generous sympathy with the agricultural population in all parts of the country. The Civil Procedure Code provided that in payment of debts agricultural implements and cattle should be exempted from attachment and sale ; but what would be the practical effect of the present Bill in relation to that clause of the Civil Procedure Code ? What good would there be in exempting agricultural implements and cattle from attachment for debt when the land would be liable to be sold and the ryot turned out of his hearth and

home. The proposed measure would be thus inconsistent with the tendency of recent legislation for the rest of India, and productive of great injustice to the agricultural population of Bengal.

There was one point to which he thought he ought to draw the attention of the Council particularly. It was this: that if the sale of occupancy tenures was to be confined to the agricultural classes, the zemindar must always be on the *qui vive* to see that every person who acquired the occupancy right should fulfil the legal condition, namely, that he should cultivate the land with his own hands or by means of hired labour; that he should not in any way use the land for the purpose of receiving rent, and that meant constant watchfulness and perhaps frequent litigation on the one hand, or frequent corruption of the zemindar's amlah on the other. It was not possible for the zemindar to know personally what ryot was actually fulfilling the condition of cultivation of the land; he must leave that task to his amlah or ministerial officers, and these must be always on the look-out to see whether the ryot did fulfil the condition of cultivating the land: in that way a wide door would be left open for continual harassment, annoyance, and litigation.

He had incidentally alluded to the experience of other provinces on the subject. He need hardly invite the attention of the Council to the report of the Commission appointed by the Government of Bombay for investigation of the Deccan riots some four years ago. That report had since been made the basis of legislation, and he found from the reports of the Council of the Governor-General that the Hon'ble Mr. Cockerell had introduced a Bill the other day for the relief of indebted ryots in the Deccan, the main object of which was to put restrictions upon the sale of land for debt. Well, in the same way the Civil Procedure Code, as he had already stated, had put restrictions upon the sale or attachment of agricultural implements and cattle for debt and upon the sale of land for unsecured debts. He was reading the other day the report of Mr. Elliott, the Famine Commissioner of Mysore,

and he came across the following paragraph in that report : it was a very interesting and instructive paragraph. Mr. Elliott said—

"A custom has grown up (not, as far as I could learn, confirmed by any legal authority) under which he possesses a transferable interest in the land he cultivates, and this right of sale and mortgage is being followed by the same baneful results as in other parts of India. The ownership of the land is fast passing out of the hands of those who are directly interested in it. Any one who, in technical language, "tests the jamabandi,"—that is, who takes the village papers and walks over the fields to compare the actual with the recorded facts,—will learn that this field belongs to a Brahmin at Seringapatam, and that to a revenue official at the head-quarters of the district, and the third perhaps to a trader in Bangalore. Not single fields only, but large blocks of land, and sometimes whole villages, are alienated in this way ; and the actual cultivator, the old owner, remains on the worst and most precarious of tenures, a metayer tenancy-at-will, paying half the crop to the distant proprietor. In this way the glory of the ryotwari system, the union of cultivating and proprietary rights in one person, is departing from it, and the zemindari system is growing up without a traditional basis, without historical justification, and without the careful protection of subordinate rights which the experience of three generations has introduced to remedy the evils inherent in the less simple tenure which prevails in Upper India."

He asked the Council to consider whether, by legislation in this Council, it was desirable or expedient to push the tenantry in Bengal to that condition. There was subinfeudation enough in Bengal, but it was now proposed to prohibit the subletting of occupancy tenures. He thought that was a step in the right direction ; but if they sanctioned the sale of occupancy tenures in the way proposed, they would, he was afraid, introduce into Bengal the same condition of things which had taken place in Mysore, and which the Mysore Commissioner had depicted in such vivid colours. It might be said that the condition of the peasantry in Mysore, in Bombay, in Northern India, in Central India, was quite different from that of the peasantry in Bengal. He did not quite understand that argument. In what respect did the social and domestic economy of the peasant in Bengal differ from that of his brother in Bombay and other provinces. There was perhaps one cause of difference to the credit of Bengal. The Bengal peasants

were not turbulent, and therefore not a source of political danger; whereas in some of the other provinces they were more or less so, and therefore for them it was not considered expedient to allow the transfer of land. But in other respects the condition of the cultivators in all the provinces was the same, and if it was the duty of Government to maintain the peasantry in a happy and prosperous state, the same considerations which induced the Government to bar the sale of land in the other provinces ought to apply to the province of Bengal.

He would also draw the attention of the Council to a feeling which widely prevailed amongst the landed gentry of Bengal in favour of a law of entail.

[HIS HONOUR THE PRESIDENT observed that the law of entail was hardly a question which was connected with the subject of discussion before the Council, and the hon'ble member should therefore confine his remarks to the question in hand.]

He was merely referring to the subject by way of analogy. He meant that the peasantry of Bengal, by the recognition of the right of occupancy, heritable but not transferable, did practically enjoy that law of entail which the landed gentry had not.

He had noticed at some length what he conceived to be the weak points of the proposed measure. He had done so, he repeated, with the greatest diffidence and hesitation, because he found, as he had already said, the opinions of very able and very experienced gentlemen opposed to his. But he felt very strongly on the subject, and had endeavoured to express his opinion honestly and frankly. The question before the Council was one of the greatest moment to the people of Bengal. It was not a personal question, it was not a party question, it was not a race question, it was not a Government question, but a question which would affect millions at the present day, and probably many more millions in the future. His Honour the President had been anxious to provide means for the support of the people suffering from distress at times of famine or scarcity, and the Government of

India had founded an Insurance Fund for that purpose. But the best means of insuring the people from such calamities in his opinion was to place them in such a position that they might by their own exertions be able to cope with them. If, however, facilities were given to the peasantry to part with their lands, they would lose the most potent engine for warding off such calamities. If the land was gone, as the Bengali adage had it, everything else was gone, and taking that view, he humbly dissented from the proposed measure, because it would help the ryot to get rid of his land. He did not wish to make any formal motion, but as the whole question would be discussed in Select Committee, the arguments and considerations which he had endeavoured to advance would, he hoped, be taken into consideration by the Committee.

CALCUTTA TRAMWAYS BILL.

The Hon'ble Baboo Kristodas Pal moved at a meeting of the Council held on the 13th December 1879, for leave to bring in a Bill to authorize the making and to regulate the working of street tramways in Calcutta.

THE HON'BLE BABOO KRISTODAS PAL said the first experiment in tramways in Calcutta, as hon'ble members were doubtless aware, had not left a very pleasant memory behind. It was undertaken by the late Justices in 1873 at the instance of the Government, and its failure was attributed to the action of the Government. The late Justices, in their administration report for 1875, thus noticed this fact. They stated—

1st.—That the tramway was constructed to meet the wishes of Government.

2nd.—That the tramway proved a financial failure owing to the action of Government, and not from causes within the control of the Corporation.

3rd.—That the Justices were prevented by Government from concluding a most advantageous arrangement for the disposal of the tramway at cost price. For the above reasons the Justices maintained that they had an equitable claim to be reimbursed the expense, amounting to about Rs. 1,60,000, incurred by them.

As the above scheme was initiated by Government, and its success marred by Government allowing the Port Commissioners and the Eastern Bengal Railway Company to have competing lines, the Justices repudiate all responsibility for the failure which has taken place and the waste of public money incurred, especially as, notwithstanding the failure of the scheme, the rate-payers might have been saved from all loss had not Government stepped in and prevented the Justices concluding the sale of the tramway to a capitalist of the city."

Such were the rise and the fall of the first tramway in Calcutta, if he might so express himself. But the present project was founded on a totally different basis altogether. It was now proposed that tramways should be constructed by a private company, and that the Municipality or the Corporation should give to them the franchise of the roads upon which the lines would be laid. The Municipality would charge a moderate rent, but the management of the tramways would be left entirely to the grantees. The Municipality at present derived no inconsiderable revenue from hackney coach receipts and from the horse and carriage tax and the tax on hackeries, and it was feared that a good portion of this revenue might be lost in consequences of the introduction of tramways. But that was, he might say, problematical. He was told that the hackney carriage traffic had not suffered from introduction of tramways in Bombay. Besides, this loss would be recouped by the Municipality in two ways. It would, as he had stated, derive rent for the use of the roads, and also save the cost of repairs of nearly one-third of the roads on which the trams would run. To the public, he need hardly say, the introduction of tramways would be a great advantage, and the experience gained in Bombay showed that, given the same conditions, there was no reason why the scheme should not succeed in Calcutta.

The object of the present Bill was to confer the necessary legal powers on the Corporation and the grantees for carrying out the contract, which had been already agreed to between them and sanctioned by Government. It had not been thought advisable to embody all the terms of the contract in the Bill. While validity would be given to the agreement, occasion had been taken to secure

the rights and interests and the convenience of the public. The Bill followed the lines of the Bombay Tramways Act, with slight variations as the agreement already entered into between the Company and the Corporation might require. The project, he should mention, was in good hands. The promoters, Messrs. Parrish & Co., had already achieved much success in this line in the United Kingdom, and the Council might therefore fairly expect that they would carry out the scheme in Calcutta with equal success.

The details of the agreement had been fully considered by the Corporation and the grantees and their attorneys, and as the Government had sanctioned the agreement, he did not think it was necessary for him to dwell on the terms of the contract.

There were one or two provisions made in the Bill with the view of enabling the grantees to extend tramways to the suburbs, if the extension was thought desirable, and to these he would draw attention when he would move for the reading of the Bill. At present he moved for leave to introduce it.

The motion was put and agreed to.

He said he had already stated that the Corporation and the grantees had formally executed the agreement and that the Government had sanctioned it. Both the Corporation and the Company were anxious that they should commence the works at once, and they were therefore solicitous that, as this was the working season, no time might be lost in conferring upon them the necessary legal powers. Under the circumstances, he applied to His Honour the President to suspend the Rules for the conduct of business in order that the Bill might be read in Council.

The PRESIDENT having declared the Rules suspended—

He moved that the Bill be read in council. He had already given some account of the origin of this Bill. As the Bill had been in the hands of hon'ble members, he need not recapitulate its detailed provisions. He might mention that it sanctioned seven lines of tramway which were enumerated in section 2. It

further provided that, subject to the approval of the Corporation of Calcutta and the Suburban Municipal Commissioners, and the sanction of the local Government, the grantees might take up any new lines which they might think fit, and if they extended their operations to the suburbs, the provisions of the Bill would apply *mutatis mutandis*. The other provisions of the Bill were matters of detail which might be best considered in select committee. There was one provision in the Bill which was borrowed from the Bombay Act. It gave power to the grantees to sell their rights and powers to other persons, and such persons should also be subject to the provisions of the Bill in the same way as the original grantees. That provision did not obtain in the agreement between the Corporation and the grantees, nor in the Bombay agreement, but it was in the Bombay Act, and he thought it might be fitly embodied in this Bill. There were some provisions in the English Tramway Acts which he for one thought might well be made applicable to Calcutta, but he reserved those points of consideration in select committee. With these words he moved that the Bill be read in Council.

The Hon'ble Baboo Kristodas Pal moved at a meeting of the Council held on the 10th January 1880, that the report of the Select Committee on the Bill to authorize the making, and to regulate the working, of street tramways in Calcutta be taken into consideration in order to the settlement of the clauses of the Bill, and that the clauses of the Bill be considered for settlement in the form recommended by the Select Committee.

The HONBLE BABOO KRISTODAS PAL desired to state that only one communication had been received in respect of the Bill: it was from Colonel Tennant, the Master of the Mint. Colonel Tennant's communication had been considered by the Select Committee, and a clause had been inserted in the Bill saving the rights of existing tramways to cross any tramway constructed

under the Act. There was an old tramway running from the Mint to the river bank, and the introduction of that clause was therefore considered necessary. But with regard to the representation of Colonel Tennant, that the passing of the tramway cars would disturb the automatic balances of the Mint, he had placed himself in communication with the Chairman of the Municipal Corporation, who had been kind enough to obtain for him the opinion of Mr. Kimber, the Municipal Engineer, and of some eminent engineers in the service of the Government.

Mr. Kimber wrote—

“In my opinion the vibration from cars running on the proposed tramway in the Strand Road will not be greater, if as great, as that caused by the existing traffic in loaded vehicles, which is constant. Much may be done by a careful and special construction of road, for such distance at all events as would be abreast of the Mint premises, and under the Act and Agreement we can see to this.”

Then Mr. Souttar wrote —

“Since the receipt of Colonel Tennant's communication I have had an opportunity of consulting three eminent engineers (all in Government service) on the point raised. They are all of the same opinion as Mr. Kimber, and indeed expressed their opinion in stronger terms than he has done. I cannot therefore think that Colonel Tennant's anticipations ought to stop the Bill. The automatic balances can, it appears, be removed ; possibly, the Assay Office could also be removed further from the road. The tramway will also, it should be remembered, be a convenience to the Mint in several ways.”

These opinions showed that there was no necessity for any further amendment in the Bill. He would therefore proceed with the motion which he had just made.

CONTAGIOUS DISEASES (ANIMALS) BILL.

The Hon'ble Mr. O'Kinealy moved at a meeting of the Council held on the 20th December 1879, that the Bill to provide against the spreading of contagious diseases among animals be read in the Council.

The HON'BLE BABOO KRISTODAS PAL said he was sorry to observe that in introducing this Bill the hon'ble member in charge had placed before the Council such scant information showing the necessity for the measure. The statement of objects and reasons was dismissed with about ten lines, and was not accompanied by any official papers whatever, showing whether there had been any such increase of contagious diseases among animals in Calcutta as to necessitate the proposed measure.

In his introductory speech the hon'ble member laid great stress on the Bill which had been introduced into the Council of His Excellency the Governor-General. He said—

“Every motive which induced the Government of India to legislate for the Upper Provinces applied with tenfold force to induce the Government of Bengal to pass a somewhat similar enactment for Calcutta and its suburbs.”

It was not for him (BABOO K. D. P.) to enquire whether there were good and valid reasons for the introduction of a Bill of this kind in the other Council, but every member of His Honour's Council had a right to know what reasons did exist for the entertainment of a measure of this kind for these provinces. If the rate of mortality amongst horses in Calcutta had not been more than what was ordinarily the case, and if no necessity was established for such a rigorous law as was proposed, he did not think this Council would be justified in sanctioning it. He dared say the hon'ble member would be able to put the Council in possession of papers which would show the necessity for such legislation. But looking to the Bill as it was put before the Council, he must confess that the machinery it provided would perhaps do more harm than

good. In the first place the Bill was not complete in the definition of "contagious disease." It said—

" 'Contagious disease' means glanders, farcy, and any disease which the Lieutenant-Governor may from time to time, by an order published in the *Calcutta Gazette*, declare to be a contagious disease for the purposes of this Act. "

With all deference, he submitted that it was the duty of this Council to define by its own enactment what diseases should be brought within the scope of the Bill. Surely His Honour the President would admit that, aided by his Council, he was more competent to define "contagious disease" than he would be as the head of the Executive Government.

Again, it was provided that owners of diseased animals should give notice when any animal was affected with any contagious disease. With regard to the diseases of glanders and farcy, he could say on behalf of native gentlemen that he doubted whether one out of a hundred could at the early stage of the disease discover what it was, and it would therefore be very hard if from suspicion that an animal was so affected a person who did not give information should be subjected to a penalty of Rs. 500 as provided in the Bill.

Then, again, it was provided that an animal affected with glanders or farcy was to be slaughtered on the certificate of a Veterinary Surgeon, or in his absence of a Civil Surgeon or an Assistant Surgeon. Now, if the disease should really exist, and a competent person should certify to the fact of the disease, certainly there could be no reasonable objection to the destruction of the animal. But it was well known that the Assistant Surgeons as a body knew nothing about horse diseases, and it would be most dangerous to authorize them to grant certificates and empower police officers to act upon such certificates. With regard to Civil Surgeons, he did not know how far they were acquainted with such diseases: it was Veterinary Surgeons alone who possessed a special knowledge of the subject. If this provision were res-

tricted to Veterinary Surgeons, he would not object to it ; but, as it was framed, it applied also to Civil Surgeons and Assistant Surgeons, the majority of whom, as he had already remarked, could not be presumed to possess a scientific knowledge of horse diseases, and the result he feared would be abuse of power and oppression. Armed with a certificate thus given, the police officer would seize the suspected animal, and if so inclined might slaughter it ; or on pretence of suspicion he might first seize the animal, and afterwards take a certificate from an incompetent Assistant Surgeon, and under its authority destroy a valuable horse. If Civil Surgeons and Assistant Surgeons without special training could not fairly be expected to be acquainted with diseases among animals, how much less could a police officer be expected to have such knowledge ; but the section in question gave power to a police officer to seize a horse on mere suspicion of disease. He thought such a provision would lead to much hardship and oppression. For his own part he thought the object of the Bill was good, but the machinery for putting it into force should be different from what was contemplated in it. If a hospital were established, and if suspected animals were taken to such an hospital and there kept under observation, and in cases of actual outbreak of disease the infected animals were slaughtered, probably a sufficient safeguard against a wanton interference with private rights would be provided. It was observable that the English Contagious Diseases of Animals Act provided that, when a diseased animal was slaughtered, compensation should be given to the owner of the animal so slaughtered, but no such provision obtained in this Bill.

And lastly, he considered it his duty to enter his protest against that part of the Bill which authorized the slaughtering of cows and oxen under suspicion of being affected with contagious diseases. Such a provision would be most revolting to the religious feelings of the Hindu community. The hon'ble member in charge of the Bill had, neither in the statement of objects and

reasons, nor in his introductory speech, said anything to show that cows and oxen were subject to glanders or farcy, but the Bill as it was framed had for its object the suppression of those contagious diseases.

He had thought it proper to refer to an experienced Veterinary Surgeon on this point, and he wrote as follows:—

"Cows, Oxen, and all horned cattle are not susceptible to 'glanders' or 'farcy.' Even when they are inoculated with the matter taken from an affected horse, they fail to take the disease."

Then he thought the hon'ble member must mean some other contagious diseases than glanders and farcy. But if he did so, he ought to have proved that such contagious diseases were prevalent among cattle, and that there was an extraordinary mortality in consequence, before he asked for legislative interference. All that had been said was about horses, but cows and oxen were included in the Bill. If it was at all thought necessary to extend the Bill to cows and oxen, he would suggest that provision be made for the isolation and treatment of diseased cows and oxen, instead of a summary law for their slaughter. He did hope that hon'ble members would take this point into consideration and not sanction any provision of law which was calculated to grossly outrage the religious feelings of the Hindus.

CESSES CONSOLIDATION BILL.

The Hon'ble Mr. Dampier moved at a meeting of the Council held on the 10th January 1880, that the Bill to amend and consolidate the law relating to local rating for the construction charges and maintenance of roads and other means of communication and of provincial public works be read in the Council.

The HON'BLE BABOO KRISTODAS PAL said, in asking for leave for the introduction of this Bill the hon'ble member in charge paid a well-merited tribute of praise to the memory of the late Mr. Sehalch, who brought his great ability, sagacity, and knowledge

to bear on the original design and subsequent elaboration of the Road Cess Act. He thought hon'ble members of Council, who took part in the enactment of the Road Cess Act, would allow that the Council was equally indebted to another member—alas, now no more!—who lent his thinking mind and great practical knowledge to the solution of the problem then before them; he alluded to his lamented friend Rajah Digumber Mitter. Although that gentleman was on principle opposed to the imposition of the road cess, still, when it was decided that the cess should be imposed, he loyally and cheerfully co-operated in giving a practical shape to the Bill; and he believed that the great self-acting principle of assessment, to which the success of the measure was chiefly due, was first suggested by Rajah Digumber Mitter and subsequently matured by the Committee.

The object of the present Bill was to remedy some defects of the existing Act, which its working for the last eight years had brought to light. By far the most important improvement which the hon'ble member in charge of the Bill had suggested was the registration of lakhiraj tenures for the assessment of those tenures. He thought that of all men interested in the land, the lakhiraj holders were under the greatest obligations to the State, and ought to make full contribution towards the maintenance of roads and other communications which benefited them so much, because they made but scant return to Government for the protection and many other blessings which they received from it. Under the existing Act they had totally escaped assessment, except here and there where the zemindar had been too honest not to conceal rent-free lands in his returns: but even then they had not paid their dues in all cases. It was nothing but legitimate and just that some measures should be devised for the assessment of lakhiraj lands for road cess purposes, and for the easy recovery of the cesses from the owners of such lands.

The hon'ble member in charge had noticed *seriatim* the modifications introduced in the Bill, for some of which he had

said he was not individually responsible. As to the definition of "cultivating ryot," it struck him that it would be practically impossible for the zemindar to distinguish who were cultivating ryots in the sense they were defined in the Bill. The "cultivating ryot" was defined to be a person cultivating himself, or through hired labourers or others, lands held in his name for which he received no rent in money or kind. Now, under this definition all ryots subletting their lands would be excluded, and how would a zemindar know how many ryots in his estate cultivated how much of his lands in the way indicated in the Bill, and how much he underlet. This definition ought to be carefully considered by the Select Committee and adapted to the real circumstances of the country.

With regard to the mode of recovery prescribed by the Bill, viz. that an arrear of cess should be regarded as an arrear of land revenue, he entirely concurred in the remarks which fell from the hon'ble member who had just spoken. This point, as his hon'ble friend had remarked, was very fully considered by the Select Committee on the Road Cess Bill of 1871, and also by this Council when the Bill was passed. And although there were some able officers, as the hon'ble member in charge of the Bill had observed, who were in favour of declaring an arrear of cess as an arrear of land revenue, the preponderance of opinion was in favour of the other view which was embodied in the Act. And he did not think the history of the working of the cess for eight years had brought to light any new circumstances which would justify the abandonment of the policy that had been adopted in 1871. The hon'ble member remarked that a host of peadars might be scattered over the country for the collection of the cess, thus doing no end of mischief and hardship to those in default. But from enquiries he had made, he had not come to know that, under the present system, there was reasonable apprehension for any such calamity as the hon'ble member had imagined. But he believed there had been great hardship and

suffering in the realization of the house cess, comprising small sums collected from small owners of houses ; and in this Bill it was proposed, he believed rightly, to do away with the house cess. But with regard to the land cess, he did not know if there had been any difficulty in realizing it from landholders ; and although the present law did not recognize the principle of treating arrears of cess as arrears of land revenue, practically in many districts the Collector took good care to realize the cess first before the land revenue. He did not think there was any necessity for a change of the law on this point.

Then he came to that part of the Bill which referred to District Committees. From what he had heard and read he must confess that, notwithstanding the earnest endeavours of Government to avail themselves of the services of these Committees, in many districts they were huge shams. The members did not practically take any interest in the proceedings, and they were generally so far off from what he might call the scene of operations that they could not, without great inconvenience to themselves, always attend the meetings of the Committees. Where there were railways or other means of communication, members residing in the mofussil did occasionally attend ; but many could not attend without much self-sacrifice, and also did not care for diverse reasons to attend. The Road Cess Committee therefore, it was generally supposed, represented the official views current at the head-quarters of the district ; even those non-official members who attended were said to echo the voice of the officials. It was of course not in the power of this Council to make the members of Road Cess Committees take an active part in their business if they did not choose to do so, or to infuse a spirit of independence where it did not exist, or of intelligent or enlightened thought where there was not room for it. But some provision might be made by which, as far as the legislature was concerned, the members of the Committee might be induced to take a greater interest in the administration of the fund. Look-

ing to the provisions of the Municipal Acts, he found that certain matters were reserved for the consideration of an ordinary meeting, and certain other matters, involving large expenditure, reserved for the consideration of a special general meeting. The quorum for an ordinary meeting was small; that for a special general meeting was large: and generally special general meetings were more largely attended than ordinary meetings. If that principle were introduced into the Cess Act, and if it were provided that works which involved an expenditure of say Rs. 5,000 or upwards should not be decided at ordinary meetings, but should be laid before a special general meeting requiring a larger quorum, perhaps the members might consider these latter matters of greater importance and might feel a greater inducement to attend the special general meetings. He would certainly make special provision for the meetings which would pass the budget estimates, as these were of the greatest importance to the district.

Then again with regard to appointments. Perhaps hon'ble members were not unaware that there was scarcely another public institution in which grosser jobberies were committed in the appointment of engineers and other officers than under the Road Cess Committees. The Government of Bengal had repeatedly issued instructions for the appointment of proper men to these offices; but those instructions had been little heeded, and private interests and influence had generally carried the day. He was sorry to say that favouritism and jobbery had run riot under many Road Cess Committees. He would suggest the insertion of a provision in the Bill giving power to Government to sanction appointments carrying salaries above Rs. 200 per mensem—a provision like that obtained in the Calcutta Municipal Act. The Chairman of the Corporation was competent to appoint persons to posts the salary of which did not exceed Rs 200; but all appointments with salaries above that sum must be sanctioned by the Commissioners in meeting. In the same spirit the Road

Cess Committee might nominate men to appointments above Rs. 200, but the ultimate sanction should rest with the Government. If the Government had a voice in the matter, he felt sure that the reign of favouritism now existing would come to an end.

Provision had been made for the grant of pensions and gratuities to Road Cess officers. At present the cost of establishment absorbed a considerable portion of the revenues of the Road Cess Committees; and practically there was not a very large surplus left for necessary and useful works. He did not see any reason why the system of pensions should be introduced in the administration of the Road Cess. Pension was not allowed to municipal officers, nor to the officers of Guaranteed Railways and he did not see why it should be conceded to Road Cess officers. If there was a superfluity of funds, there would be no objection; but as a matter of fact many useful works were starved for want of funds, and he did not consider it desirable that the resources of the Committees should be thrown away by granting pensions and gratuities.

Then the Bill provided that the maximum establishment charge should not exceed one-fourth of the estimated income of each year. It had been seen in some districts, and he might mention the district of Rajshahye as an example, that although regular estimates of income and expenditure were prepared, the money was not expended, but the establishment was entertained all the same. He thought it would be more equitable to provide that the maximum cost of establishment should not exceed one-fourth of the actual expenditure on all accounts: then the Collector would make it a point to see that the works which had been estimated for were really carried out, or that the money provided for was really spent; surely, the money should not be hoarded and the cess-payers taxed without receiving the *quid pro quo*.

He thought that the Nuddea Road Cess defalcation case ought to open their eyes as to how the Road Cess accounts

should be kept. He was of opinion that some more rigorous checks and restrictions should be imposed on the disbursement of money than were contemplated in the Bill. At any rate he would associate one of the members with the Chairman and Vice-Chairman in the signing of cheques ; three pairs of eyes would certainly see more than one.

In the next place he would draw attention to the suggestion which was made in this Council in 1878 by this friend Rajah Promatha Natha Roy when the Public Works Cess Bill was under consideration. He suggested, in consideration of the trouble and loss to which zemindars were exposed in collecting the cess, that some remuneration should be given to them ; and His Honour the President then said in reply that he did not think it was right at that time to propose any alteration of the scheme of the road cess, but continued—

"No doubt the amendment was upon a subject which was worthy of consideration, and His Honour had already publicly said that he was quite prepared to consider what remuneration should be given to the zemindars for the collection of these cesses. But he did not think that the Council would be in a position, without consulting the local officers of Government and others interested, to say what was the exact amount of *moshaira* which should be allowed to zemindars to cover their losses. He therefore thought the consideration of this section should stand over until the general amendment of the Act was taken up, so as to enable the Government to enquire what was the best to be done in regard to this matter."

He thought the time had now arrived for the consideration of that important point, and he hoped the Select Committee would direct their attention to it.

Lastly, there was one point which he found had not been included in the Bill. The Bill provided for the construction and maintenance of roads, bridges, canals (not irrigation canals), and the like ; but in some parts of the country perhaps, a light railway would be more useful than roads. A railway project, combining several districts, if carried through, might develop the resources of those districts more rapidly and effectually than any number of roads. But the Bill did not give power to the Cess

Committee to set apart any portion of the cess for such purpose. He did not propose that any contribution should be given towards the capital outlay, but perhaps some grant-in-aid towards the payment of interest on such capital would go a great way in helping forward railway schemes of the kind he had mentioned. There was, for instance, the Gya railway project which was now hailed as a blessing by all classes of the people. At one time there was much difficulty in finding means for the payment of interest for the capital to be sunk on that project. The Government looked into the Road Cess Act, but could not find therein any authority for appropriating any portion of the Road Cess Fund to that purpose. But the short experience of the Gya Railway had shown that it had done far more good than the metalled road which had been in existence for years. Similarly, there were other parts of the country where light railways would be very useful and beneficial, and small contributions, by way of payment of interest on the capital sunk on such railways for the first few years, might perhaps give an impetus to the development of the resources of the country which the mere construction of roads and bridges would not afford. He would therefore invite the attention of the Select Committee to the consideration of this important question.

COMPULSORY VACCINATION.

The Hon'ble Baboo Kristodas Pal moved at a meeting of the Council held on the 13th March 1880, for leave to introduce a Bill for Compulsory Vaccination.

THE HON'BLE BABOO KRISTODAS PAL said he had been asked to take charge of the Bill to render vaccination compulsory, and he did so with much pleasure. He considered a compulsory Vaccination Bill a legitimate corollary of the Inoculation Prohibition Act. That Act was passed in 1865 ; it came into immediate operation in Calcutta and its suburbs ; it had also been gradually extended to some of the first class municipalities and

military cantonments in Bengal. When he declared himself in favour of a compulsory measure of this kind, he did not mean that its extension should be general. He wished to restrict the compulsory law to Calcutta and its suburbs; and if power was given in the Bill to Government to extend it to first and second class municipalities, that provision had been introduced at the special instance of Government. He might, however, mention that the Government was not desirous of extending the compulsory Act throughout Bengal; it proposed to take the necessary power in order to meet sudden emergencies in case of a widespread epidemic of small-pox. But this question would be discussed by the Select Committee to whom the Bill might be referred hereafter.

The case of Calcutta was quite different. Here the process of education in vaccination had been going on for a long time past. Here the first step in this direction had been taken by some of the conservative and leading Hindu families before the prohibition of inoculation by legislative enactment was even thought of by Government. Resting the authority for vaccination on a text of Dhunnuntari, the father of Hindu medicine, the late Rajah Sir Radhakant Deb, the most esteemed leader of the orthodox Hindu community, promulgated, if he might so express himself, the doctrine of vaccination; and as education had progressed, the old prejudices against it had worn off. Inoculation was prohibited in 1865; and for the last fifteen years Dr. Charles, the Inspector-General of Vaccination, had proved the best educator of the people of Calcutta in the matter of vaccination. The position attained by him was thus described in his own words:—

“The following propositions may be assumed as capable of proof. If any question should arise as to the advisability of accepting them without evidence, I shall be prepared to adduce the proofs when called upon:—

“(a) The great majority of the resident population in Calcutta, amounting perhaps to such a high figure as one above that represented by 95 per cent., have accepted vaccination, or would accept it, as a matter of course, were there any

children in the family, and would, if left to themselves, continue to have their children vaccinated.

"(b) Among the floating population, any man, woman, or child that can be caught by a vaccinator can be, with greater or less difficulty, vaccinated. The exceptions to this proposition are so few as might possibly be represented by such a small figure as 1 per cent.

"(c) Besides the above classes there is a distinct and separate class which consists chiefly of adult males among the floating population, who, from causes inseparably connected with their position, cannot be singled out or caught hold of by the vaccinators. Among this class a considerable percentage consists of unprotected persons. The percentage, though not a large one in itself, may be taken to represent a very considerable number indeed of unprotected persons who constitute a source of great danger to Calcutta. These persons catch small-pox when it prevails, and form so many centres of contagion that it is very difficult for vaccinators to keep pace with an epidemic when it has once begun among them.

"(d) The vaccination, as it has been practised in Calcutta since the year 1864, though in reality only a voluntary system, has virtually amounted to compulsory vaccination. The law it is true does not compel a man to be vaccinated ; but the Vaccination Department bring so much pressure to bear on the population that so far as relates to any man, woman, or child belonging to certain classes, their vaccination amounts almost to a certainty ; the cases are few indeed in which repeated representations addressed to any unprotected persons fail in inducing them sooner or later to receive vaccination.

"Based on the knowledge of the above facts the argument for compulsory vaccination simply amounts to this. Almost all the educated and the thinking members of the community have already accepted vaccination of their own accord. The uneducated and unthinking part of the population, from one reason or another, already undergo vaccination ; the interests of neither will be affected by a vaccine law. The law will chiefly affect a number of adults who come to live among a vaccinated community. Although this number is small when calculated in relation to the general population, yet in itself it is so large as to constitute a very serious source of danger even to a protected population. It is chiefly these people who die during an epidemic of small-pox. A compulsory vaccination law would doubtless save some of their lives ; it would do more than this—it would prevent these persons from becoming so many foci of contagion which disseminate small-pox among a comparatively well vaccinated community, who are thus exposed to the inconveniences attending on an attack of this disease, although they have availed themselves of the only means at their command to ward off such a visitation."

A compulsory vaccination law would thus offer any violence to the feelings of the vast majority of the people of Calcutta

It would simply give legal sanction to a practice which had been already voluntarily accepted by most of his countrymen dwelling in this great city.

Nevertheless prejudices existed among certain sections of the community. Their adherence to tyrant custom was so strong that no amount of persuasion or moral pressure would avail. He witnessed a sad illustration of this fact in his own neighbourhood during the epidemic of 1877-78. The braziers of Kansariparah formed a compact guild; they had many estimable qualities; they were an industrious and thriving class; they were independent in spirit, and, as a body, unsophisticated in mind and manner; but they had a strong prejudice against both inoculation and vaccination. During the epidemic there was scarcely a house among them which was not converted into a house of mourning. Young cherubs were snatched away from the bosoms of their mothers; one, two, three successively fell victims to the fell disease in the same house, and still the fortress of prejudice remained impregnable. The army of vaccinators laid siege to it, but without effect; the chief of their clan capitulated by setting an example in his own house, but the mass remained unmoved. At last some of them gave in; but it was then too late. Now, he submitted, a double responsibility rested upon these men. As parents and guardians of young children who could not think for themselves, and who were entirely under their control, they were bound to protect their lives from the fatal disease; and as neighbours, they had no right to put the whole neighbourhood in danger by gratifying their own unreasoning prejudice. To meet cases of this kind a compulsory law was absolutely necessary. The only objection he had heard against such a law was that it would be an arbitrary interference with the liberty of the subject. Those who took this objection forgot that the whole course of penal legislation against the committal of nuisances might be objected to on that ground. They might as well say that the Legislature had no right to restrain a man from committing breaches of the peace,

because it interfered with the liberty of the subject, or prevented him from doing what he in his sweet will might be pleased to do. They forgot that when men formed members of a community, individual liberty ought to be made subservient to the good of that community. An individual was but a component part of a community ; and if the interests of the community required a certain sacrifice, no individual member of it should complain.

It was not necessary for him to dwell at length on the subject. He might, however, remind the Council that the British Government had been engaged in diffusing vaccination from the earliest period of its establishment in this country. Vaccination, he read in Dr. Green's report on vaccine operations, was introduced under the auspices of no less a personage than Lord Clive in 1802. The earliest report on vaccination in Bengal was that of Dr. Shoolbred, Surgeon to the native Hospital at Calcutta for the year 1804, published by order of Government in 1805. The total number vaccinated during 1804 in the Bengal Provinces (including, besides, Prince of Wales Island and Fort Marlborough) was 8,140. The office of Superintendent-General of Vaccination seemed to have been instituted at Calcutta early in this country. The first grand step in advance was taken in Bombay under the enlightened rule of that eminent statesman, Monstuart Elphinstone, in 1827. In 1854 the Bombay system was introduced into the North-Western Provinces under the able superintendence of Dr. Pearson. In Madras no proper system was introduced till 1865. Vaccination under a European Superintendent was introduced into the Central Provinces in 1864, and into Oudh in 1867. Thus our Government had taken an active part in this work of humanity from the beginning of this century.

But the vaccine operations of our Government had hitherto been carried on on the voluntary principle. In 1877 a compulsory law was passed for Bombay. A Bill had been introduced in the Council of the Governor-General giving power to the local Governments which had no local legislatures to extend the bene-

fit of vaccination to municipalities and military cantonments within their respective territories. He thought that the time had arrived for the enactment of a similar law for the metropolis of British India.

As regards the details of the Bill, he would not trouble the Council with any remarks at the present stage. The questions as to what kind of lymph should be used ; whether any fee should be charged for vaccination ; whether the poorer classes should be provided with gratuitous vaccination ; and if so, under what conditions ; whether females who, according to the custom of the country, could not appear in public, if too poor to pay the fee, should be vaccinated free of charge, and what procedure should be followed in enforcing vaccination : all these questions would be noticed when the Bill would be read in Council.

He now moved for leave to introduce the Bill.

The Hon'ble Baboo Kristodas Pal moved at a meeting of the Council held on the 20th March 1880, that the Bill be read in the Council.

THE HON'BLE BABOO KRISTODAS PAL said last week he explained to the Council the reasons and objects of the Bill to make vaccination compulsory. He proposed now to give a brief outline of its main provisions. The Bill had been drafted chiefly on the lines of the Bombay Vaccination Act, with such alterations and modifications as the circumstances of this province had called for. The preliminary chapter of the Bill contained certain definitions to which he need not refer at any length. The sections providing for vaccination first of all prescribed that children should within one year after their birth be vaccinated ; secondly, that unprotected children under fourteen, who were brought to reside in the city temporarily or permanently, should be vaccinated ; thirdly, that the parents or guardians of unprotected children living within

the city, or in any portion of the suburbs to which the Bill might extend, should within six months of the passing of the Act, cause them to be vaccinated. Then the Bill provided for the vaccination of unprotected adults; and lastly, for the vaccination of seamen arriving in the Port of Calcutta. The vaccination of adults was a new feature in this Bill; that provision did not obtain in the Bombay Act, but it had been found from experience that small-pox was often brought into the city by unprotected persons, and it was therefore of the utmost importance that measures should be taken for the vaccination of adults. The vaccination of seamen was left to the Health Officer of the Port of Calcutta. The Bill did not lay down any hard-and-fast rules about the character of the lymph to be used for vaccination. The subject of the kind of lymph which ought to be used, as the Council was well aware, was a matter of much controversy amongst scientific men both in Europe and America; experiments were going on in several European countries with calf lymph, and in the Bombay Act the use of animal lymph had been made obligatory. But the preponderance of medical opinion here seemed to be that it would be best to leave the matter open at present, and to let the Government which would supply the lymph supply that kind of lymph which might be in accord with the scientific opinion of the day. He should mention that in Bengal, and throughout Upper India he believed, arm-to-arm vaccination was generally practised, and human lymph was used. If, however, experience or mature scientific opinion should tend to the other direction, he dared say the Government would take necessary steps to provide a supply of that kind of lymph which would be most acceptable to the public. The ancient books of Hindoo medicine, he might say, were more in favour of calf than human lymph.

Under the Bombay Act the vaccinators were allowed to levy a fee for vaccination, and to apply it to their own use. The Bombay Act laid down no limit to the amount of fee to be levied. The Bill before the Council prescribed a maximum limit of eight annas,

which he hoped would be considered moderate enough. It would be carried to the credit of the Municipality of Calcutta, which would be charged with the cost of the vaccination establishment; and in the case of the Mofussil it would be credited and expended in such manner as the Government might direct. Practically the vaccinators now charged a fee; it was a voluntary offering, but it was nevertheless charged and paid by the people. Now it was proposed to remunerate the vaccinators liberally, and to carry the fees to the credit of the Vaccination Fund.

The procedure laid down for Calcutta was different from that which was provided for the Mofussil. In Calcutta the Health Officer of the town would be put in charge of the department, and would act under such rules and regulations as the Lieutenant-Governor might lay down. Calcutta would be divided into different sections and wards, and public vaccine stations would be established in each, or, where the wards were small, two of them might be conveniently doubled up and one vaccine station provided for them; and, on the other hand, two or three vaccine stations might be established in the larger wards. Persons resorting to the vaccine stations would not be charged any fee whatever, but those who might call in the vaccinators to their own houses would be required to pay the fee. With regard to females who, according to the custom of the country, did not appear in public, the Lieutenant-Governor would make rules for their gratuitous vaccination.

The Bombay Act provided criminal imprisonment for neglect to vaccinate, but in this Bill the penalty of a fine was proposed, and no imprisonment was provided for neglect to vaccinate. A fine of Rs. 100, with a daily fine of Rs. 30 for every day during which the offence was continued, would, he thought, act as a sufficient deterrent against neglect. Prosecutions under the Act would be by summons. This was an important point, and he believed the provision would be acceptable to the general public.

Lastly, the Bill gave power to the Lieutenant-Governor to make rules to provide for the appointment of deputies of public vaccinators when necessary ; to determine the qualifications to be required of public vaccinators or their deputies ; to regulate the gratuitous vaccination of females who, by the custom of the country were unable to attend the public vaccine stations, and were too poor to pay ; to provide for the supply of lymph ; to regulate the books and forms to be kept by public vaccinators and registrars ; and for the guidance of public vaccinators and others in all matters connected with the working of the Act.

He was informed that a suggestion had come from the Government of India to the effect that, when the Bill was extended to first and second class municipalities, opportunity should be given to the inhabitants of those places to express their opinion before the Act was introduced. That was the procedure now followed in the Panjab with regard to the introduction of the municipal law ; this suggestion would be duly taken into consideration by the Select Committee to whom the Bill would be referred. He now moved that the Bill be read in Council.

CALCUTTA MUNICIPAL ACT AMENDMENT BILL.

The Hon'ble Babu Kristodas Pal moved at a meeting of the Council held on the 12th March 1881, that the Bill to amend, "The Calcutta Municipal Consolidation Act, 1876," be read in the Council.

THE HON'BLE BABOO KRISTODAS PAL moved that the Bill to amend "The Calcutta Municipal Consolidation Act, 1876," be read in Council, and in doing so he said he should endeavour to give a brief analysis of the provisions of the Bill. In the first part of the Bill provision had been made to legalize the consolidation of the loans borrowed from the Government, and with respect to this point, it might be open to question whether it was at all necessary to make legal provision of this kind, because he

found, on reference to the Municipal Act of 1876, that the Government loans were contracted outside the Act. It had, however, been found desirable to give legal effect to the consolidation of the Government loans, and the provisions of sections 2 and 3 had accordingly been inserted in the Bill. The opportunity had also been taken to indemnify the Trustees in charge of the Sinking Fund for making over to the Government the Government portion of the accumulations of the Fund up to date, in order to carry out the terms of the consolidation of the Government loans. The whole transaction had been completed—it was now a *fait accompli*, but the sections had been drawn on the lines of the Port Commissioners Amendment Act, in order that the Commissioners might at a meeting, other than an ordinary meeting, give effect to the transaction.

Power was given by another section to the Commissioners to set apart annually, in respect of future loans for the drainage and water-supply of the town, one per cent. on the total amount of the loans as a Sinking Fund for the repayment of the loans. He had explained to the Council that, under the existing law, the Commissioners were required to assign two per cent. as a contribution to the Sinking Fund, but that contribution necessitated increased taxation, and unnecessarily threw a heavy burden on the present generation of ratepayers. The Commissioners therefore represented to the Government that it would be both reasonable and equitable that the liability should be divided between the present generation and posterity, and that the contribution to the Sinking Fund should therefore be reduced from two to one per cent. The Government of Bengal had acceded to that representation of the Municipal Commissioners, and supported it in a letter to the Government of India on the subject. With His Honour the President's permission he would read an extract from that letter. After alluding to the consolidation of the Government loans, and the relief afforded to the town by the arrangements made, the Secretary to the Government of Bengal remarked—

"The corporation are now considering a scheme for largely increasing the supply of water, and extending it to the suburbs, and the Lieutenant-Governor proposes to amend Act V (B. C.) of 1876 so as to give the Suburban Commissioners power to levy a water-rate to cover the expenses incurred on their behalf by the Calcutta Municipality. The work in contemplation will be of such a nature as to last long beyond the present generation. The drainage works, too, are essentially of a permanent nature, and their benefits will extend to posterity. On the other hand, there is no ground for apprehending any decline in the prosperity of Calcutta, within any period to which reasonable anticipation can extend. Municipal taxation in Calcutta is very high, and the Lieutenant-Governor believed that any increase in the rates would seriously interfere with the progress of the town. Only once during the ten years, from 1870 to 1879, did the aggregate rate fall below 16 per cent., and in four of these years it was 18 or 18½ per cent. It is a question whether, even now, the population of the town is not less than it would be if the rate of municipal taxation were lighter. In the suburbs taxation is also high, and it is represented that, if the rate to be levied is to include provision for a two per cent. Sinking Fund contribution, the scheme will probably have to be abandoned. Under these circumstances, the Lieutenant-Governor proposes to make provision in the amending Act for a Sinking Fund contribution of one per cent. only on all public loans raised for water-supply, on the understanding that the Municipal Commissioners of Calcutta determine to lay a new 62 inch main conduit from Pultah, and he would make a similar provision in regard to loans for drainage works. He trusts the Government of India will signify their approval of this measure."

He did not know whether any reply had been received to that letter, but he hoped the recommendation of the Government of Bengal would be accepted by the Government of India. The rate-payers of Calcutta ought to be grateful to Government for relieving them from so heavy a charge on the Town Fund, which was dictated by a sense of justice to the present generation. Whilst on this subject, he might advert to the provision made in section 12 of the Bill for the extension of the water-supply to the suburbs. He considered it his duty to point out that it was no part of the obligation of the Municipal Commissioners of Calcutta to supply water to the suburbs—that their sole duty was to supply water to their own rate-payers. But if the Commissioners of the Suburbs desired to avail themselves of the Calcutta supply and would pay for it, the Calcutta Commissioners would certainly

assist them. At present, the law did not authorize the Commissioners of Calcutta to extend the water-supply to the suburbs, nor to levy a rate for the purpose ; it was therefore proposed to give them power to extend the supply to the suburbs on the application of the Suburban Municipality and the consent of the local Government, and to impose a water-rate on the suburbs sufficient to cover interest on the capital for the extension works, contribution to the Sinking Fund, and the cost of maintenance and supervision, and the necessary renewal of works. Accordingly, section 12 had been introduced, but he hoped it would be distinctly understood that it was not the object to throw an undue burden on the Calcutta-rate-payers. If the people of the suburbs wished to drink the water of Calcutta, they must pay for it—unless they consented to pay the price, they could not justly be held entitled to the water.

He now came to some of the detailed provisions of the Bill. Section 5 legalized the designation "Town Council." It might be in the recollection of the Council that, when the Municipal Act of 1876 was passed, there was no provision in that Act for the constitution of a Town Council ; but Mr. Metcalfe, who officiated for some time as Chairman of the Corporation, gave the name "Town Council" to the General Committee of the Commissioners. The business of the Municipality was carried on partly by the Chairman and partly by Committees of the Commissioners : there was the General Committee, which met every week—sometimes more than once a week : there were Special Committees which sat on special subjects and made reports, and these reports were considered by the Commissioners in meeting. The General Committee performed the functions of the body which, in Bombay and other places, was called the Town Council, and it was desired that that designation should be legalized ; but it was not intended in any way to change the constitution of the Committees or their present procedure.

Then, some practical inconvenience had resulted under the present provision of the law, which required that the budget

should be laid before the Town Commissioners at their quarterly meeting in October, when the Doorga Pooja holidays intervened. It was proposed to alter the time for the submission of the budget from October to November.

He now came to section 14 of the Bill, which related to pensions. He did not wish to discuss this subject at length, as he stated, when he applied for leave to introduce the Bill, that he was not responsible for the introduction of this section. He believed there had been some correspondence between the Government of India and the Government of Bengal on the subject, and it might probably be arranged hereafter that the section should be omitted, but he could not give any positive information to the Council regarding it—he would leave it to His Honour the President to explain the position in which the question now stood. But he repeated that, in his opinion, it was not fair and equitable to throw any charge for these pensions on the Municipal Fund, for the officers concerned were in no sense servants of the Municipality—they were not appointed by the Corporation—they were not liable to the control of the Commissioners, nor to dismissal by them. The Municipality paid a lump sum for the maintenance of the police under an Act of the Legislature, and it was never intended or declared that the funds of the Municipality should be burdened with the pensionary allowances of persons who were all along considered to be Government servants. From 1867 to the present time, the Municipality had only been called upon to pay a certain portion of the cost of the police, but they were now for the first time asked to make a contribution towards their pensions as well. He hoped that the Municipality would be exempted from that burden.

He would now advert to what was known as the bustee question. The sections in the Bill had been drawn on the lines of The English Artizans Dwelling Act, and in framing the sections, care had been taken that no land should be acquired arbitrarily or hastily. First of all, any land or area which might be

considered to be in a state dangerous to health would be reported upon by two competent medical men in addition to the Health Officer of the Town. After receiving the report of such medical men, the Commissioners would consider what improvements should be made. They might if they thought it necessary, report to the Government, recommending that the land be acquired under the Land Acquisition Act, and they might then reclaim the land and carry out the improvements at their own expense, or re-sell the land to private individuals under certain conditions as to building, drainage, and other sanitary requirements. Compensation should of course be paid according to the Land Acquisition Act, and the Commissioners were authorized to borrow money for this purpose.

The next subject which he would notice was the registration of shops for the sale of European drugs. There were some defects in the existing law as to registration, which it was now proposed to remedy by giving full power to the Health Officer. For instance, the present law did not give power to the Health Officer to seize any medicines which had become deteriorated by reason of climate or age, or to require the proprietor of any shop to employ a competent compounder. Section 21 gave power to the Municipal Commissioners to require the proprietors of drug shop to employ persons duly certified, under such rules as the Government might from time to time provide on the subject. His Honour the Lieutenant-Governor was pleased to say, at the last sitting of the Council, that he would be happy to co-operate with the Municipality by instituting a compounder's class in the Campbell Medical School, and lay down certain conditions to test the professional qualifications and capacity of men to be employed in druggists' shops.

The next provision in the Bill gave power to the Commissioners to license fuel shops near burning grounds. This subject was perhaps not thoroughly known to hon'ble members of the council. They were doubtless aware that, near the burning ground-

shops were kept for the sale of fuel and other articles for cremation : great abuses at one time existed in respect of these shops, and his friend, Baboo Chunder Mohun Chatterjee, moved Mr. Wauchope, who was then Commissioner of Police for Calcutta, to put a stop to those abuses by licensing one or two shops for the sale of fuel. The abuses were so great that Mr. Wauchope, though not having the support of the law, considered it necessary by a stretch of executive authority to regulate the sale of fuel at these shops by licensing one or two of them. That arrangement continued when the late Justices came into existence. Sir Stuart Hogg examined the question, and he was also satisfied that, unless some hold was had on the sale of fuel at the burning ghats, great abuses would again arise, and he therefore continued the arrangements made by Mr. Wauchope, and those arrangements had since been in force. But lately, owing to a new interpretation of the law by a Bench of Magistrates in Calcutta, rival shops had sprung up, and some police cases had resulted in consequence. It was therefore proposed to give power to the Commissioners to license fuel shops with a view to put down disputes and litigation, and to check abuses. Section 24 of the Bill provided for that purpose.

These were the main provisions of the Bill ; the other sections covered minor amendments, which did not call for particular remarks. But there was one point deserving of notice, which was at present outside the Bill. He meant whether the Municipal year should be brought into harmony with the Financial year of the Government. Hon'ble members had seen amongst the papers circulated with the Bill a letter from Mr. Secretary Macaulay, in which reference was made to this subject. The Municipal year in Calcutta corresponded with the calendar year, but the Secretary of State urged that the Municipal year in all the Presidency towns should be made to correspond with the Official year. This question was referred to the Commissioners some time ago, and he found that it was reserved for consideration till the time when

the Municipal Act might need amendment. The question had therefore been now again urged for consideration. He, for his own part, thought it would entail great practical inconvenience on the Municipality if the Municipal year were made to correspond with the Official year. All the municipal licenses corresponded with the calendar year, and if the Financial year were made the Municipal year, then the year of such licenses must be altered, the books of the Municipality must also be altered, and at least for one year the tax-payers, who had to take out these licenses, would have to pay license fees for a year and a quarter, and great practical inconvenience would thus arise. The object of the Government was, he believed, to have the municipal accounts made up according to the Financial year, and he understood that there was an executive order in existence under which the municipal accounts were furnished to Government according to the Financial year, so that the primary object of the Government, he ventured to think, had already been attained by the executive arrangement^s already in force. But if the Government should insist on the change of the Municipal year, it would be for the Select Committee to consider how far the wishes of Government might be met.

The Hon'ble Baboo Kristodas Pal at a meeting of the Council held on the 26th March 1881, presented the report of the Select Committee on the Bill to amend "The Calcutta Municipal Consolidation Act, 1876."

THE HON'BLE BABOO KRISTODAS PAL presented the report of the Select Committee on the Bill to amend "The Calcutta Municipal Consolidation Act, 1876," and in doing so he said the modifications made by the Select Committee were fully set forth in the report, and he need not therefore trouble the Council with a detailed statement of the alterations made. It had been his misfortune to differ from his colleagues on some important points, but he would take an opportunity to notice them when the Bill would be brought up for settlement of its clauses. There were,

however, one or two points which he might now notice. One of the most important objects of the Bill was to give power to the Commissioners to take up land for the reclamation of bustees. When he applied for leave to introduce the Bill, he endeavoured to explain the procedure under which a bustee might be reclaimed by the Corporation under the existing law. That procedure, he might say, was two-fold. First, the Commissioners were required to serve notice on proprietors of land, calling upon them to carry out certain improvements which might be recommended by their Sanitary Officer; these proprietors might be required to make roads within bustees for the admission of conservancy carts, to introduce drainage and water-supply, to lay out huts in proper order, and to make other sanitary arrangements. If the proprietors did not carry out the orders of the Commissioners, they were competent to carry out such improvements at the expense of the Municipality and to recover the expense afterwards from the owner. That was one procedure. The other mode of procedure was very much the same, with this difference, that the scheme of improvement was not to be brought into operation till the condemned bustee had been reported upon by two competent independent medical gentlemen. If the Health Officer reported a bustee to be particularly unhealthy, and if the Commissioners thought fit, they might call upon two independent medical men to report on the bustee. These gentlemen were required to set forth a scheme of improvement which might partially or wholly be adopted by the Commissioners, who were competent to require the owner to carry out all the improvements they might order. If the owner neglected to carry out the improvements, the Commissioners were competent to carry them out and to recover the cost from the owner. The expense might be so heavy that, perhaps in some cases, the proprietor of the bustee might not be able to meet it. It had therefore been considered hard to enforce the Act in cases in which the owner might be too poor, or might find the undertaking to be unremunerative. The best course in such cases, he thought,

would be for the Municipality to take up the land and pay proper compensation to the proprietor. As he had mentioned to the Council on the occasion he had referred to, he had pressed this point on the Council when the Municipal Act of 1876 was under consideration, so this was not the first time he ventured to bring the subject before the Council. At that time it was thought that the extensive powers given to the Commissioners by the Act might first be tried, and if they were found to be insufficient, they might be subsequently extended. When introducing the Bill, he read to the Council an extract from a letter of the Government, in which His Honour the present Lieutenant-Governor recommended that the Commissioners might take up land for the improvement of bustees, and sell or lease it as they thought fit in order to recoup themselves. The Commissioners had also come forward with the same suggestion in a letter to the Council, and accordingly provisions had been introduced in the Bill to give the Commissioners the necessary powers. The Select Committee had, however, so hedged in the provision as to prevent the Commissioners from arbitrarily exercising the power or embarking in land speculation. The amended Bill provided that no unhealthy area should be taken up by the Commissioners unless independent medical testimony was obtained as to the unhealthiness of the locality concerned. The bustee must be first reported upon, specially by two competent medical men, before it could be included in any scheme of improvement by the Commissioners under the provisions of the Bill; the Commissioners would then consider the scheme of improvement recommended, and lay it before the Lieutenant-Governor for consideration and sanction, and, after obtaining such sanction, might take measures to acquire the land. Within two years of the acquisition of the land, the Commissioners should either carry out the scheme of improvement at their own expense, or make arrangements for carrying out the improvement by other persons. And within five years from the time of the commencement of the improvement, and

seven years from the date of purchase of the land, the Commissioners must sell the land unless the time was extended by special order of the Lieutenant-Governor; so that the Commissioners would not be competent to hold the land they might purchase for the profit of the Corporation. This provision of the Bill would act as a check upon the acquisition and improvement of land, for, as fast as the Commissioners might acquire or improve any land, they would be bound to sell it; they must not hold land for the pecuniary benefit of the Corporation. The object, as he had stated before, was simply to assist the Municipal Corporation in carrying out more effectually the reclamation of bustees. This provision, he hoped, would be doubly beneficial. In the first place it would assist the Commissioners in carrying out sanitary improvements; in the next place it would help proprietors of bustees, who might not have the means of carrying out improvements of large magnitude; they would receive fair and sufficient compensation for the land they possessed, but which they were not able to improve. He thought these sections, on the grounds he mentioned, were fair and equitable to all parties concerned, and most important from a sanitary point of view.

The next section to which he would refer was the section about drug shops. He believed there was no difference of opinion on the point that there ought to be some provision for the proper regulation of shops where medicinal drugs were exposed for sale. The Bill provided for the proper registration of drug shops; next, for their proper supervision by the Health Officer of the Town; and thirdly, for the employment of certificated compounders for the dispensing of medicines in those shops. It had been pointed out to him that, as the section had been worded, it would include Indian drugs which were used for the preparation of indigenous medicines, and if certificated compounders were insisted upon for the sale of such drugs, it would offer serious impediment to trade and to the indigenous system of medicine. In order to meet this objection, the Committee had inserted the words "drugs

recognized in the British Pharmacopœia, not being also articles of ordinary domestic consumption." It, however, happened that Indian drugs had been included in the British Pharmacopœia which were not articles of domestic consumption; other drugs were also included which were used both for domestic consumption and medicinal purposes in this country. It would be very hard if, by any words in this section, the trade in Indian drugs should be fettered in any way. These drugs were very cheap, they were sold by small druggists, they were used by Indian Kobirajes and Hakeems, and most of them were comparatively innocuous, and if any obstacle were thrown in the way of the sale of such drugs, it would be a serious inconvenience to the public. He would therefore take the opportunity, when the clauses of the Bill would come up for consideration, to ask the Council to consider whether some explanation should not be attached to the section which might exclude from its scope drugs which might be used for indigenous medicine.

He need not notice the other amendments made by the Select Committee, because they were more or less explained in the report; he would now present the report, leaving the detailed consideration of the clauses of the Bill for the next sitting of the Council.

The Hon'ble Baboo Kristodas Pal moved at a meeting of the Council held on the 2nd April 1881, that the report of the Select Committee on the Bill to amend the Calcutta Municipal Consolidation Act, 1876, be taken into consideration in order to the settlement of the clauses of the Bill, and that the clauses of the Bill be considered for settlement in the form recommended by the Select Committee.

On the motion of the HON'BLE BABOO KRISTODAS PAL the following clause was added to section 13 of the Bill:—

"In the same section, after the word 'rates' the words 'and fees' shall be inserted."

He said that at the last meeting of the Council he had stated that it had been his misfortune to differ from his hon'ble colleagues in the Select Committee on the subject of the provision relating to the extension of the water-supply to the Suburbs. The section, as framed by the majority of the Committee, went, he thought, beyond the original scope of the Bill, for, when the Bill was introduced, it was not intended to extend the water-supply to other environs of the Town than the Suburbs. But as the section now stood, it gave power to the local Government to extend the water-supply to the environs of the Town without limiting the same to the Suburbs, and the proviso declared :—

"Provided that the Commissioners may, with the sanction of the local Government, assess a separate and distinct water-rate upon any portion of the environs, not being more than the maximum rate leviable under the Act. The Commissioners may require the Commissioners of *any* Suburban Municipality to arrange for the assessment and collection of the water-rate within any tract belonging to such Municipality."

Read this proviso in the light of the remarks made by the majority of the Select Committee. They said :

"If the local Government is empowered to declare any portion of the environs to be part of the Town for the purposes of the water-supply, all the legislative sanction necessary will be given. The Government will then be in a position to act as supreme arbitrator between the Calcutta Corporation and the Suburban Municipalities."

Now, reading the two together, one could not resist the conviction that the amended section covered a much wider area than what it was the original intention to embrace. He for one did not believe that the Government did intend to assume such large powers ; his impression was that the object of the Government was to limit the operation of the proposed law to the Suburbs only, by giving the inhabitants thereof the benefit of the Calcutta water-supply. If he was correct in this interpretation of the intention of Government, he hoped necessary alterations

would be made in the Bill to limit the extension of the supply to the Suburbs only. If the environs of the Town were included, an indefinite and enormous burden would be imposed upon the Town.

With regard to the general question of the extension of the water-supply to the Suburbs, he wished to declare at the outset that he was not in the least opposed to that measure. All that he wanted was that it should be extended upon fair and equitable principles ; that the Calcutta Corporation should not be made to suffer any loss for the sake of the advantage which might be conferred on the sister Municipality ; that it should be a matter of fair exchange. But if the Council would carefully compare the section as it stood in the amended Bill with the section as it stood in the original Bill, they would find considerable difference between the two. In the amended Bill power was given to the local Government to determine to what portion of the environs of the Town the extension of the water-supply was to be sanctioned. In the original Bill the initiative was left to the Calcutta Corporation. When this amendment was introduced, he was told that this enabling provision had been drawn on the lines of the present Municipal Act, which empowered the Lieutenant-Governor to extend the drainage sections to the Suburbs. He wished it to be understood that there was a material difference between the enabling power given to the local Government under the drainage section, and that given under this section. It was never intended, when the drainage section was inserted in the Calcutta Municipal Act, that the drainage system should be extended to the Suburbs to any large extent. The object was simply to enable the Commissioners to extend the benefits of the Calcutta drainage to persons dwelling on the other side of the Circular Road. That section had been on the Statute Book for nearly eighteen years, and the Government had never thought it necessary to extend it to the Suburbs. But, on the other hand, the Calcutta Commissioners had of their own accord allowed persons, living on the other side of the Circular Road,

to connect their houses with the Circular Road sewer. Thus the operation of the drainage section had been very limited, but it was well understood that, under the section proposed in this Bill, a considerable portion of the Suburbs would be brought within the scheme of the Calcutta water-supply; in fact, the avowed object was to take active measures for the extension of the water-supply to the Suburbs. It could not therefore be contended for a moment that the power given under this section would not be largely exercised for years to come. Such being the case, when they saw that the circumstances connected with the two matters under notice were so distinct and different, they ought to consider whether the Calcutta Corporation should not have the initiative, as it would have to bear the money responsibility. It should be borne in mind that this was not simply a question of law, but that it was a question of money. It was not simply a question whether the Government should have the power or not, but it was a question whether the Government should exercise the power if the Suburban Municipality was not in a position to make a fair and full contribution for the benefit they wished to enjoy. He contended that before the obligation for the extension of the supply was made imperative upon the Calcutta Corporation, that body was entitled to enquire and satisfy itself as to whether there would be a sufficient surplus of water after meeting the wants of the Town for sale to outsiders, and whether the price which the Suburbs might be prepared to pay would cover all costs. Hence, it was necessary that the initiative should be left to the Corporation, who, when necessary, should move the local Government to bring the provision of the law into operation.

Then, the majority of the Committee admitted that the Suburban Municipality could not afford to pay more than 6 per cent. They said: "But we restrict this to the maximum already allowed by the Act, as that appears to us, on the figures available to us, not only as much as the Suburbs ought to bear, but as much as they can possibly afford to pay." So that the Committee had not

considered whether the Suburban Municipality ought to pay more or not, but they thought that they could not afford to pay more than 6 per cent. It was not quite correct to say that there were no figures before them to show whether a 6 per cent. rate would be sufficient or not. The dissent which he thought proper to record gave the figures. But apart from the question whether the Suburbs should pay a higher rate or not, the Select Committee thought that they could not pay more. If that was the conclusion at which the Select Committee had arrived, he did not see with what consistency they recommended that the Calcutta Municipality should be compelled to extend the supply of Calcutta water to the Suburbs. For when power was given to the local Government to declare the Suburbs a part of the Town for purposes of water-supply, the Municipality would have no option but to carry out the orders of Government.

Some discussion took place in Select Committee as to the size of main. Now, he stated to the Council, when he had the honour of introducing the Bill, that if the Government conceded the reduction of contribution towards the Sinking Fund from 2 to 1 per cent., the difficulties about the 62-inch main would be solved. He said he for one would support the introduction of the 62-inch main; he did declare that, as the Government had been pleased to concede the reduction of the contribution to the Sinking Fund, the 62-inch main should be adopted. It might be a question whether the 62-inch main would be necessary for the purposes of the Town only, or whether it would suffice for both the Town and Suburbs. Individually, he thought that a 42-inch main would double the present supply, but others held that a 62-inch main would be required, as the wants of the Town were rapidly growing, and a 42-inch main would not be sufficient a few years hence. One thing was, however, clear, that if a 62-inch main was required for the Town, then the Town would not be in a position to give water to the Suburbs without the addition of another main. Even if at present the 62-inch main should

yield sufficient water for the Town and Suburbs, a few years hence it might be necessary to have another main to meet the growing wants of the Town, and in that case the Town would be put to additional expenditure for increased supply. That was one view of the question. As regards the other view, which he had endeavoured to represent, it was quite clear that if a 42-inch main would double the present supply, the increased size of the main would benefit the Suburbs, and it was but reasonable and just that the Suburbs should pay a portion of the cost of the increased size. From whatever point of view they considered the question of the main, they would find that the cost of the works and the working expenses and other charges would be so large that a maximum 6 per cent. rate recommended would not be sufficient to meet the total cost, and the result would be, as he had endeavoured to show, that the Town would have to make up the deficiency on account of the Suburbs. But, said the majority of the Committee, the Government having conceded a reduction of the contribution towards the Sinking Fund, the Corporation ought to pay the extra cost. Now, he for one could not for a moment admit that, when the Government was pleased to make the concession, it ever made it a condition that the benefit of reducing the contribution should go to make up the deficit of the Suburbs for the extension of the water-supply. The question of the reduction of the contribution towards the Sinking Fund was put upon two grounds—firstly, that the tax-payers of Calcutta were burdened with very heavy taxation; and secondly, that the 2 per cent. contribution fell chiefly upon the present generation of tax-payers, which was not equitable; but the Government never told them that if the contribution was reduced, and the water-supply extended to the Suburbs, the Suburban rate-payers should be relieved of any portion of the cost of the extension of the supply. He would read to them an extract from a letter from the Government of Bengal to the Government of India, recommending the concession of a reduc-

tion of the contribution towards the Sinking Fund. It was as follows :—

"The Government of India are aware of the great importance of filling up the numerous filthy tanks which have hitherto been the cause of so much disease in the town ; but the completion of this work depends upon the increase in the supply of river water for the use of the people. The Corporation are now considering a scheme for largely increasing the supply of water and extending it to the Suburbs, and the Lieutenant-Governor proposes to amend Act V. (B. C.) of 1876, so as to give the Suburban Commissioners power to levy a water-rate to cover the expenses incurred on their behalf by the Calcutta Municipality. The work in contemplation will be of such a nature as to last long beyond the present generation. The drainage works, too, are essentially of a permanent nature, and their benefits will extend to posterity ; on the other hand, there is no ground for apprehending any decline in the prosperity of Calcutta within any period to which reasonable anticipation can extend. Municipal taxation in Calcutta is very high, and the Lieutenant-Governor believes that any increase in the rates would interfere seriously with the progress of the town. Only once during the ten years, 1870 to 1879, did the aggregate rate fall below 16 per cent., and in four of these years it was 18 or 18½ per cent. It is a question whether, even now, the population of the town is not less than it would be if the rate of municipal taxation were lighter. In the Suburbs, taxation is also high, and it is represented that, if the rate to be levied is to include provision for a 2 per cent. Sinking Fund contribution, the scheme will probably have to be abandoned. Under these circumstances, the Lieutenant-Governor proposes to make provision in the amending Act for a Sinking Fund contribution of one per cent. only on all public loans raised for water-supply, on the understanding that the Municipal Commissioners of Calcutta determine to lay a 62-inch main conduit from Pultah; and he would make similar provision with regard to loans for drainage works. He trusts that the Government of India will signify their approval of this measure."

Now, there was not one word in the letter to show that, if this concession was made, it would be a sort of set-off against any deficiency in the Municipal funds of the Suburbs on account of water-supply. He submitted that he was quite within the four corners of the Government letter he quoted when he said that, while the Calcutta Corporation should adopt a 62-inch main, it should not be charged with any portion of the cost of the supply to the Suburbs.

Then, he had been told by the Select Committee that the

Government had heretofore much assisted the Calcutta Commissioners in carrying out the water-works, and that it had therefore a right to expect that the Commissioners should show some consideration to the Suburbs. He for one readily acknowledged that the Municipality had received assistance from the Government in the prosecution of the water-works ; but it seemed to him, and he thought it would be admitted that, as Calcutta was the metropolis of the Empire, there was an inherent obligation on the Government to support the Metropolitan Municipality in carrying out improvements which would make the capital city worthy of the residence of the highest personages in the land. He would not raise the question whether in all matters the Government had been liberal to the Municipality, he meant in its financial relations with the Municipality ; but while he acknowledged with gratitude the assistance the Municipality had received from the Government in the execution of the water-works, he could not for a moment admit that that assistance was rendered with any stipulation whatever that the Municipality should in its turn extend the water-supply to the Suburbs. If such a condition had been imposed, the Corporation would have considered at the time whether they should have borrowed the money from the Government or gone to the public for the necessary accommodation.

He had been surprised to observe that an impression prevailed in certain quarters that there was jealousy between Calcutta and the Suburbs. He for one denied that any such jealousy existed. The Calcutta Corporation had never hesitated to lend the benefit of its own works to the Suburbs whenever they applied for it. Not many years ago the Suburbs were allowed to discharge their sewage into the Circular Road sewer, and even now the houses lying on the other side of the Circular Road were allowed to be connected with the sewers ; and with regard to water, it was sold to the inhabitants of the Suburbs at a very small charge ; indeed, it was notorious that the Suburban people did make use of Calcutta water. The question was, however, whether, taking all these facts

into consideration, the circumstances of the Calcutta and Suburban Municipalities were such that they could go together in partnership for the purposes of the water-supply. He saw that in the last annual report of the Suburban Municipality this question was discussed, and the Suburban Commissioners frankly stated that the differences in the condition of the two Municipalities were so great that they could not be fairly yoked together for the purposes of water-supply. He would read an extract from their last administration report. The Suburban Commissioners said—

“These drawbacks are not sufficiently considered by those who unthinkingly clamour for a water-supply like that of Calcutta, and it is not at all unusual for them to remark: ‘They have got water-pipes in Calcutta, why don’t we have it in the Suburbs?’ It requires very little discrimination, however, to understand that what is practicable in a compact area like the city, consisting of some five square miles of closely built, highly rented valuable properties, and with a large well-to-do rate-paying population, may be financially impracticable in a semi-rural suburban township covering four-and-twenty square miles with a scattered and poor population inhabiting property bearing a comparatively low rate of assessment.”

The Suburban Commissioners thus distinctly admitted that the differences in the condition of the two Municipalities were such that it was not practicable, financially, to extend the water-supply to the suburbs. He endeavoured to show in his dissent that a 1 per cent. rate in Calcutta meant Rs. 1,30,000 per. annum, whereas a 1 per cent. rate in the Suburbs meant less than Rs. 25,000; so that, practically, it came to this, that a 6 per cent. water-rate in the Suburbs would yield only as much as a 1 per cent. rate in Calcutta. When such was the difference in the condition of the two Municipalities, was not it preposterous to say that the maximum rate which was levied in Calcutta should also be levied in the Suburbs? An equal rate for equal benefit to the Town and Suburbs, he submitted, was a misnomer. Taking all these things into consideration, he proposed the following amendment, namely that the following section be substituted for section 15:—

"~~P~~. After section 160, the following section shall be inserted, namely—

"The local Government may (on the application of the Municipal Commissioners of Calcutta) determine what portion, if any, of the Suburbs of the Town shall be included in the said system of water-supply, and may declare the boundaries thereof in the *Calcutta Gazette*, and for the purposes of the water-supply, the land within such boundaries as aforesaid shall be deemed to be part of the Town.

"Provided that the Commissioners may, with the sanction of the local Government, assess a separate and distinct water-rate upon any such portion of the Suburbs, calculated on a scale sufficient to include interest upon all capital expended in the construction of the works necessary for the purpose of extending such water-supply, together with all charges for maintenance, supervision, and renewals of the same. The Commissioners may require the Commissioners of the Suburban Municipality to arrange for the assessment and collection of the water-rate within any tract belonging to such Municipality, and in that case the Suburban Commissioners shall have all the powers of the Commissioners for the purpose of such assessment and collection under the Act.

In reply to the remarks of the Hon'ble Mr. Mackenzie—

The HON'BLE BABOO KRISTODAS PAL in reply said he spoke the sense of the Council when he acknowledged its obligation to the hon'ble member for the elaborate essay on the water-supply of Calcutta with which he had favoured it, and he dared say that the "chattering pies" to whom he had referred in such flattering terms would also acknowledge their obligation to him. It was not his vocation to defend the Municipal Commissioners of Calcutta here; he must confine himself to the provisions of the Bill before the Council, but as his hon'ble friend had been pleased to call the Commissioners a body of "heterogeneous amateurs," because they ventured to talk on such an engineering question as the water-supply extension, he (BABOO KRISTODAS PAL) supposed that the views and opinions advanced by him on the subject did not emanate from an "amateur." The hon'ble member had given the Council a detailed analysis of the different schemes laid before the Commissioners for the extension of the water-supply. He would not trouble the Council with a review of that analysis, but the facts which the hon'ble gentleman had so carefully noted showed that the Commissioners had not been idle, and that, as

the question involved a very large outlay, the Commissioners were bound in duty and in justice to the rate-payers to give the matter their maturest consideration. He was sure that the question would long ere this have been settled if the extension of the supply to the Suburbs had not been mooted by the Government. The original scheme included the extension of the supply to the Suburbs, but that scheme was abandoned, because the Suburban Municipality acknowledged their inability to bear the cost. The question had however, been again raised and pressed upon the Commissioners by the Government, and the Commissioners felt themselves bound to consider the proposals of Government, hence the delay of which his hon'ble friend so bitterly complained. He had also spoken of the dual system, and other points in regard to which he would not take up the time of the Council. The question of the dual system involved important details which the Council was not in a position to discuss, but he did not doubt that the views which had just been advanced would be duly taken into consideration by the "amateurs" to whom his hon'ble friend had so kindly referred. He readily admitted that the sanitary interests of the Town were intimately bound up not only with those of the immediate Suburbs, but also of the villages round about. As his hon'ble friend had himself shown, cholera had been known to extend to the Town step by step from villages in the 24-Pergunnahs, and, in order to protect itself, Calcutta ought certainly to be ahead; but he wished that the treasury of the Calcutta Municipality had been rich enough to meet the many obligations which the extended views of his hon'ble friend would impose upon the Town. There was a phrase used in the last budget minute of the Hon'ble the Finance Minister, of which he was here reminded; he meant the very significant words "coercive philanthropy". He could not but say that if the Calcutta Municipality were to be burdened with any portion of the cost of the extension of the water-supply to the Suburbs or other environs on the ground that the Town was in a better position to pay, it would be a species of "coercive philan-

thropy" which the rate-payers of Calcutta could not be expected to appreciate. His friend had told them that it was not intended to extend the supply to all parts of the Suburbs; that only such parts of the Suburbs would be included as might be said to run on all fours with Calcutta. If these parts of the Suburbs did really run on all fours with Calcutta, there would have been no difficulty at all; but what was the fact? Taking the best parts of the Suburbs, he found that the financial results of taxation in Calcutta and the Suburbs were widely different. While a one per cent. rate in Calcutta yielded Rs. 1,30,000 per annum, even in the best parts of the Suburbs, which were proposed to be included in the water-supply scheme, a one per cent. rate would yield annually only Rs. 24,000, and while this vast disparity existed between the material condition of Calcutta and that of the Suburbs, he contended that it was not reasonable to speak of equality between the two places. And, lastly, his hon'ble friend said that properly speaking there was no definite scheme before the Commissioners; if this was really the case, he did not understand with what consistency it was proposed to fix the water-rate for the Suburbs definitively.

The HON'BLE BABOO KRISTODAS PAL moved that the following be substituted for clause 1 of section 16 of the Bill:—

Introduction of new section after section 162.

"16. After section 162, the following section shall be inserted, namely:—

"162. The Police Budget may, if the local Government, with the previous sanction of the Governor-General in Council, shall so direct, include a charge for pensions payable under the orders and rules of Government to all officers and servants on whose behalf provision for the payment of salary has ordinarily been made in such budget, and who may retire from service after the commencement of this Act; such charge shall be payable by the Commissioners, but shall not exceed three-fourths of the total of such pensions."

He was not in a position to say whether any orders had been received from the Government of India in reply to the representation which had been made on this subject by His Honour the Lieutenant-Governor, but if he (Baboo K. D. P.) had the option, he would move the entire omission of this provision in conformity with what fell from the President on a former occasion. But as the Council was not in a position to accept such a motion, he would move the amendment which stood in his name. The Commissioners were of opinion that a ten per cent. contribution towards pensions would saddle them with a higher proportion of payment than they ought in equity to bear, and they thought it would be fair and equitable if they were to pay only three-fourths of the pensions of such officers as might retire after the passing of the Act. He might mention that a ten per cent. contribution would amount to a payment of about Rs. 17,000 per annum, and he found that the pensions of officers who had retired within the last ten years amounted to about Rs. 16,000 per annum; so that a ten per cent. contribution would practically cover the pensions of officers who had retired during the last ten years, and thus relieve the Government of that charge altogether. As that was not the intention of Government, he submitted his amendment for the consideration of the Council.

The HON'BLE BABOO KRISTODAS PAL moved that the following clause be inserted at the end of section 23 of the Bill:—

"Nothing in this section contained shall be construed to apply to the sale of drugs used by practitioners of indigenous medicine, whether these are recognised by the British Pharmacopœia or not, when such drugs are not sold in a shop or place where medicines recognised by such Pharmacopœia are dispensed upon prescription."

On the motion of the HON'BLE BABOO KRISTODAS PAL, the following section was submitted for section 24 of the Bill—

"24. For the first clause of section 296, the following clause shall be substituted, namely:—

The Commissioners, or any person authorized by them in that behalf, may at all reasonable times enter into and inspect any place kept for the sale of drugs, or in which drugs are sold, and if they have reason to suspect that any drug in the said place is adulterated, or by reason of age or the effect of climate has become inert or unwholesome, or has otherwise become deteriorated in such a manner as to lessen its efficacy, to change its operation or to render it noxious, may remove the same on giving a receipt specifying the nature and quantity of the drug removed and its approximate value; and if it appear to a Justice of the Peace that the said drug removed as aforesaid is adulterated, or has become inert, unwholesome, or deteriorated as aforesaid, he may order the same to be destroyed or to be so disposed of as to him may seem fit. If it shall appear to the said Justice that the drug so removed is not adulterated, or has not become inert, unwholesome, or deteriorated as aforesaid, the person from whose shop or place it has been taken shall be entitled to have it restored to him, and it shall be in the discretion of the said Justice to award him such compensation, not exceeding the actual loss which has been sustained, as such Justice may think proper."

The HON'BLE BABOO KRISTODAS PAL moved that the following section be substituted for section 26 of the Bill:—

Introduction of new section after section 310.

"26. After section 310, the following section shall be inserted, namely:—

"310A. The Commissioners shall from time to time grant

Power to license fuel shops at burning grounds.

licenses to persons applying for such, for the sale, at burning grounds of fuel and other articles used for the cremation of dead bodies, and shall in meeting, other than an ordinary meeting, prescribe a scale of rates for the sale of such articles; and any person not so licensed, who shall within three hundred yards of any such burning ground sell

or offer for sale any such fuel or other articles, shall be liable to a fine not exceeding fifty rupees.

“The Commissioners may on good and sufficient reason revoke or withdraw any such license they may think fit, and any person to whom any such license is granted, who shall charge for the sale of any such article any higher rate than the rate fixed for such article in such scale, shall, at the discretion of the Commissioners, be liable to have his license cancelled, and shall also be liable to a fine not exceeding ten rupees.

“The Commissioners shall not be bound to grant a fresh license to any person whose license may have been revoked, withdrawn, or cancelled, under the provisions of this section.”

He said the object of this amended section was to encourage competition, and to enable the Commissioners to prescribe a fixed scale of rates for the sale of fuel and other articles used for the cremation of dead bodies. If the Commissioners had power to regulate the rates, all that was wanted would be attained. He need not repeat the circumstances which led to the introduction of this section in the Bill. There had been great scandals in connection with the sale of fuel and other articles at the burning-ghats, and it was therefore deemed necessary to license vendors and to regulate their charges. But as a fixed scale of rates for the sale of fuel had not the sanction of law, the proposed section would give that sanction.

SPEECHES

AT

PUBLIC MEETINGS.

FAMINE MEETING OF 1867.

In accordance with a requisition made to him, a public meeting was called by the Sheriff of Calcutta on the 12th February 1867, at the Town Hall, to consider the desirability of raising subscriptions in aid of the Orissa Famine Fund. Lord Lawrence, Viceroy and Governor-General, was in the chair. The Hon'ble Justice Seton-Karr moved the following resolution:—

“That an appeal be made for assistance to the various towns and stations throughout British India.”

BABOO KRISTODAS PAL in seconding the resolution spoke as follows :—

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Ladies and Gentlemen,—I have been asked to second the resolution which has been just moved so ably and eloquently by the honourable and learned gentleman, and I do so with great pleasure. The eloquent addresses which you have heard this evening have laid before you a sad—indeed a very sad picture of the emergency which is still impending in Orissa. In the annals of India there is not another instance in which distress was prolonged for so long a period over so large an area as in the present case of Orissa. The calamity which the drought of 1865 brought forth has been continued in some places with redoubled rigour by the inundations of 1866. I am one of those who think with Lord Cranbourne that a national calamity

should be met by the national exchequer, and in obedience to that principle the Government has been making preparations on a truly imperial scale for the mitigation of suffering in the afflicted districts. Yet there is enough room for private charity, State aid need not supersede private benevolence. It is a divine principle implanted in the human breast which prompts man to alleviate the misery of his fellow creatures. The Indian community has never been backward in seconding movements for helping the needy and feeding the starving. Only the other day, we had a beautiful illustration of this generous trait in the character of the Indian public in the noble response it made to the call for the relief of the sufferers by the famine in Bengal. I hold a paper in my hands which has been kindly furnished to me by Mr. Wood, the able and obliging Secretary to the Chamber of Commerce. I find in it that the total amount of subscriptions to the late Famine Fund was Rs. 6,000,230, of which Bombay, always in the van of charitable movements, contributed Rs. 2,07,890; Punjab, Rs. 1,16,615; North-Western Provinces, Rs. 70,257; Oudh Rs. 10,764, Bengal (mufasil) Rs. 32,573, exclusive of course of the contributions which the several local committees raised for local relief, Central Provinces, Rs. 4,073, Rangoon, Rs. 7,033, and Calcutta and its environs, Rs. 1,57,025. These figures proclaim with irresistible eloquence the charity of the Indian public. It might be doubted whether, in the face of these liberal contributions, the community of India would feel disposed to come forward again. I, for one, do not share in this doubt. I cannot believe that six lakhs represent the total sum of Indian charity available for the terrible and indeed unprecedented calamity which lately swept over the Bengal provinces, and still lingers in frightful proportions in the districts of Orissa. There is one class of the Indian Community particularly to whom I am sure an appeal, when made, will not be made in vain. I allude to the Native princes, themselves rulers of States, and possessors of large resources, and many of them noted for hereditary liberality. They will not certainly be wanting in sympathy for the suffering subjects of the British

Crown, who again are related to them by ties of blood and race. A word from the Foreign Secretary is sure to evoke among them a spirit of noble emulation for charity. And lastly, ladies and gentlemen, I request you to remember one thing. Allusion has been made this evening to the recent telegram which His Excellency the Governor-General has received from the Secretary of State, intimating that subscriptions could not be looked for from England. We must all deeply regret the cause which has led to this disheartening message, for this is the first instance of England's refusing aid to India at a time of distress. It was only the other day she came so nobly to the help of Quebec, and I feel assured that unless the pressure had been very great, she would not have rejected the present application of India, one of the main pillars of her greatness. Let us, however hope that this pressure may not last long and that we may soon have the benefit of her open handed assistance. But Lord Cranbourne's message teaches us one lesson, we must rely on ourselves. May all of us in this country, governors and governed, Europeans and Natives, princes and people, make a common effort and show by an unanimous vote that India is able to depend upon her own resources.

INCOME-TAX MEETING OF 1870.

In compliance with a requisition made to him, a public meeting of the inhabitants of Calcutta and its Suburbs was called by the Sheriff on the 18th April 1870, at the Town Hall, for the purpose of adopting a memorial to the Secretary of State for India, protesting against the recently imposed Income-tax and praying for an efficient administration of the finances of India. Babu Kristo Das Pal in moving the following resolution spoke as follows :—

“That a memorial to the Secretary of State for India, praying for the appointment of a Royal Commission of Inquiry into the administration of the finances of India be adopted.”

Mr. Chairman and Gentlemen,—I have been entrusted with the resolution for the adoption of the memorial, and I have great pleasure in moving it. The late hour to which our proceedings have extended warns me against lengthy remarks, and I will therefore be brief. The gentlemen who have preceded me here have so well, so ably enunciated the principles covered by the resolutions, and embodied in the memorial that it is superfluous for me to dwell upon them. One thing I will, however, take the liberty to observe. This memorial, rightly understood, is not so much against the present Government of India as it is in favor of it. We tax-payers and the Government of India are in accord on one vital point. Both look to reduction of expenditure for the restoration of the financial equilibrium; and if the Government of India has been compelled to retain and increase the income tax, it is because, as it declares, it is powerless to carry out retrenchments to the necessary and desired extent. It is therefore our duty, as tax-payers, to strengthen the hands of the Government of India to effect these reductions, which it thinks practically and fully compatible with the efficiency of administration. Gentlemen, there is one point in the memorial which is quite new, but highly important. I allude to the prayer for the appointment

of Royal Commission of Inquiry into the administration of the finances of India. Now I wish to be distinctly understood, and I believe the meeting will go with me in saying, that in submitting their prayer, it is not intended to cast the slightest slur on Lord Mayo's Government. The deficits which have been recurring annually cannot be, and are not the results of one year's administration of Lord Mayo ; on the contrary, His Lordship has struggled hard to extinguish them. Nevertheless they exist, and what can be the causes which annually drive the Indian Exchequer to the verge of bankruptcy ?—Is it a want of proper supervision ?—Is it a spirit of reckless extravagance ?—Is it the too close centralization of administration in India ?—Is it the anomalous relations of the Government of India with the Home Government ?—Is it the too ready and too greedy acceptance of responsibilities for works with the fascinating and misleading name of public improvement ?—or is it the natural course of administration ? The subject is vast and difficult and deserves the utmost scrutiny and most thorough and sifting investigation. I can believe, as it is maintained, that the new barracks and the so-called reproductive public works are primarily responsible for this disastrous state of things. Some of these reproductive public works, said Sir Henry Durand, are nominally so, some partially, and some are completely so ; and yet money has been spent upon them on an assurance to the public of good and speedy return. Not only has the revenue been thus improperly burdened, but again the later policy of the Government has been to encroach upon legitimate private enterprise, and thus create a fictitious necessity for ways and means. Now I submit things ought not to be allowed to go on in this way. The State which stands in need of $3\frac{1}{2}$ per cent. income-tax in order to meet its ordinary expenditure in a time of profound peace, cannot be said to be in a sound condition, and the only remedy, is in my humble opinion, a Royal Commission. This is a remedy with which Englishmen are most familiar ; when abuses accumulate and mismanagement becomes in-

sufferable, it is a remedy which English nation applies for its own well being, and we cannot believe that when we have shown the necessity for it for India, it will be withheld from us. Our prayer is reasonable and moderate; we simply beseech the Queen to look into the affairs of her vast Indian dependency—the brightest jewel in her diadem—to send out a commission of good men and true to find out the causes of the financial disasters which we all deplore, and to suggest the remedies for the better administration of the national exchequer. If this prayer be granted—and I see no reason why it should not be granted—we need not despond for our future. I will not detain you more. I will conclude by expressing a hope that this united move of Europeans and Natives, in the interests of economy, reform and good Government, has a moral force which will not be lost upon the advisers of the Queen. Such unanimity as you witness in the national hall of this great metropolis is somewhat rare, and is therefore doubtless significant. When educated Europeans and educated Natives combine and complain in one voice of the financial policy which seeks to equipoise the income with the expenditure by increased taxation from year to year, the public in England will not, I feel persuaded, condemn the cry as a party cry. They can not say it is a parcel of interlopers or a parcel of ignorant and selfish natives who alone have raised the cry; or play one against the other, for both are numerous. Both unanimously advocate reform and retrenchment, both unanimously protest against the income tax, both unanimously oppose any increase of taxation, whether in the name of imperial or local revenue. In Calcutta, as you are aware, the local taxes amount to about 25 per cent.—thanks to our model municipality? And is there any one in this hall who with a shred of sympathy in his breast, would advocate the extension of the grinding system of local taxes to poor villagers in the mofusil. The old adage says, union is strength, we have that strength in this meeting and our object is not so much to save our pockets as to conserve the general good of the empire. I do hope that the result will show that we have not met here in vain.

PRINCE OF WALES WELCOME MEETING.

At a public meeting of the inhabitants of Calcutta held on the 31st July 1875, to consider the arrangements which should be made to do honour to His Royal Highness the Prince of Wales, on the occasion of his approaching visit to this city, the Hon'ble Sir Richard Garth, Mr. E. C. Morgan, the Hon'ble G. C. Paul, Mr. N. R. Allardyce, moved the first, second, third and fourth Resolutions respectively. In moving the following Resolution :—

That the following gentlemen (names omitted) be named a general Committee for the purpose of collecting subscriptions, and adopting the measures necessary for illuminating the chief thoroughfares of the Town to the extent of the funds subscribed, and also for all that may be necessary in giving effect to the foregoing Resolutions, and that the aforesaid Committee be authorized to appoint an Executive Committee for the management of all matters of detail, and be empowered to appoint a Secretary on such salary as the Committee may think fit.

The HON'BLE BABOO KRISTO DAS PAL spoke as follows :—

Mr. Chairman, Ladies, and Gentlemen,—The resolution which has been entrusted to me, is an eminently practical one, and does not therefore need many words from me to commend to your approval. It names a certain number of public spirited, gentlemen, as representatives of the different sections of the varied community of this city, to accept the high commission of making suitable arrangements for giving a reception to His Royal Highness the Prince of Wales, such as would prove worthy of that illustrious and royal visitor, worthy of our gracious Sovereign, who will be represented in his person, and worthy of the name and fame of the metropolis of British India. It will be the office of this committee to give shape to our thoughts, expression to our feelings, and body to our deeds ; and I must say that they cannot have a pleasanter task to perform. Whatever difference may exist between Englishmen and Indians as regards language, custom, habits and religion, it is undeniable that both are animated by an all-pervading sentiment of loyalty to their common sovereign.

If Englishmen are proud of their Queen on account of the many private and public virtues that adorn her character, the Indians are profoundly grateful to her for the many blessings which have been conferred upon them under Her Majesty's beneficent rule. The feeling of loyalty, I need hardly remind you, is deeply rooted in the Hindu breast ; you have heard just now that devotion to the Sovereign is inculcated as a solemn and sacred duty in his religious books ; there is not a ceremony performed by him in which he does not make an offering to the ruling power in the land ; the king has indeed a place near the gods ; even if he professes a foreign religion that does not detract from his importance, for did not the Hindoos in the days of the Mogul Emperors chant about *Delhisarava Jagadishwarava*—the Lord of Delhi the Lord of the Universe—and the Queen of England is now the Empress of Hindusthan. She, over whose dominions it is truly said the sun never sets, reigns where the great Mogul once held sway, and claims the homage which was once paid to him. And how willingly is that homage rendered to her ! She stands forth as the representative of a power which has re-kindled the East with the light that had been borrowed from it to re-illumine the West ; which has, with the extension of its arms extended the arts and commerce of civilized life wherever it has gone ; which has resuscitated the dead bones of the ancient civilization of India, breathed the breath of life into its inert masses, given a healthy impulse to their legitimate aspirations for social and political advancement, and enabled them to enjoy the fruits of their honest labour, the yield of their enterprise, and the rights of humanity and the citizenship of a free state in peace and tranquillity, with perfect liberty, and with the utmost advantage. But it is not as a constitutional sovereign only that Her Majesty receives the homage of her subjects in the East. If I may venture to say, Queen Victoria is the Hindu's *beau ideal* of a monarch. The mistress of an Empire, the like of which, in extent, power and grandeur is not met with in history, in Her shine with the greatest lustre

the good qualities which become a sovereign and grace the daughter of Eve. Devoted and faithful to the Crown she wears kind and affectionate to her subjects, attached to her family and children, charitable to the poor, delighting in the luxury of doing good in stealth, pious but without pomp, she is equally loved and respected by those who have the privilege of approaching her august presence and by those whom fortune has placed at far distance. In the eyes of the Hindu the example she has set to the fair sex of Europe, since the Lord has been pleased to take away from her her beloved consort, cherishing with becoming devotion, self-abnegation and humility the memory of him, who was the partner of her life, her sorrows and her joys has thrown a sacred halo round her, and the earnest solicitude with which she looks to the welfare of her Indian subjects, and a notable proof of which was afforded in her lively anxiety and handsome personal contribution last year, when Bengal was visited with a dire calamity, has taught my countrymen to regard her truly as the Queen Mother. The eldest son of such a mother, who will one day succeed her on the throne—may that day be long distant—our Crown Prince, who according to all accounts, is a prince every inch, is about to visit her Indian Empire, to study its condition, its people, its resources and its institutions, and you may well imagine that nothing will gratify her more than to know that her Indian subjects has given to His Royal Highness a right loyal welcome. Hitherto the Majesty of England was to the people of India impersonal, invisible, impalpable—a sort of metaphysical property, a mere sound, an echo—but now they will have the happiness of realising bodily in the person of their royal visitor what was, as it were a structure of their imagination. The manifestations of joy with which the welcome intelligence of the auspicious event has been received in this country, are an earnest of the enthusiasm with which that event will be celebrated by all classes of Her Majesty's subjects through the length and breadth of this vast Empire ; and I do fervently

hope that when His Royal Highness returns to his native isle, he will be in a position to tell his dear mother and our beloved Queen how cordially, cheerfully and loyally was he received by Her Indian subjects, how deeply attached are they to her benign sceptre, and how earnestly do they pray for the continuance of her beneficent way, protecting the weak, relieving the wronged, helping the helpless, encouraging the good, and diffusing the blessing of peace, prosperity, and contentment.

MILITARY EXPENDITURE.

In accordance with a requisition made to him, a public meeting of the inhabitants of Calcutta and its vicinity was called by the Sheriff of Calcutta on the 2nd March, 1878, at the Town Hall, to consider the possibility of making retrenchments in public expenditure with a view to afford the people relief from the burden of heavy taxation from which they suffered. Raja Digumbur Mitter moved the first Resolution. In moving the second Resolution which ran as follows :—

"That it is apparent from the published statements and opinions of official and other authorities, that without any sacrifice of efficiency, great economy is practicable in Home Military charges and the local army expenditure of India and that in the opinion of this meeting the principle of joint partnership, on which the Home Military charges of this country are apportioned between it and England, is opposed to law and equity."

The HON'BLE BABOO KRISTODAS PAL said that it had been his intention to give his silent adhesion to this meeting, as his duties elsewhere had led him to speak frequently on the subject, to consider which they had met here to-day. But he was exceedingly sorry to announce that his friend, Dr. Rajendralala Mitra, who was to have moved the second resolution, had been taken ill, and although up to this morning he (the speaker) was in hope that he would be able to come and take his place at this meeting and

give them the benefit of his eloquence and arguments, which he knew so well how to put forth, his doctor was inexorable, and it had consequently fallen upon him (the speaker) suddenly to take charge of the resolution as his friend's *badli*. It was no ordinary question, which they had assembled to consider to-day. It affected all classes alike—rich and poor, high and low, learned and ignorant, the white man and the black man—it was a question of no further taxation and how to prevent it. India was an exceedingly poor country; the people lived from hand to mouth, and though industrious, thrifty and persevering, it was with the greatest difficulty that they could make the two ends meet, and if taxation was to go on without let or hindrance, surely they could not live and keep body and soul together. It was, therefore, of the utmost importance for the Government to consider, and for those who sought to give a tongue to the dumb millions to urge, the necessity for retrenchment and reform. The cause of economy was one, which many advocated; it had advocates in that very Hall, in the Council Chamber, and also in England; but he was sorry to say it had not met with warm and sustained support in those quarters, where it so much needed support. The subject of the second resolution was economy in the Home Military charges and local Army Expenditure of India. He was afraid the subject might scare away many people, because they might confound it with a proposal for the reduction of the army. At a time when the political horizon of Europe was overcast with cloud, at a time when Russia was, as it were, knocking at their very doors, it might perhaps be considered unwise and impolitic to ask England to revise our Army charges. But he would say to those who had such fears, not to give way to such fears; it was not proposed to ask England to reduce one single regiment, or even one single man; what they want is an adjustment of the accounts between the two countries on a fair and equitable basis, so that justice might be done to the financial claims of India—that justice which India had asked for in vain

for so many years, that justice, the withholding of which had been the cause of the increasing indebtedness of India and of growing deficits in her finances. They were all aware that in the days of the East India Company, India had a local European army recruited in England; that army did good work, and it was that army which, with the aid of the sepoy, had conquered the Indian territories for Great Britain. But the maintenance of that army had not entailed chronic insolvency on the country, and although, on an average, there was in those days almost every fifth year war or annexation, the Government always had managed to keep up an equilibrium of income and expenditure without announcing formidable deficits to be made up by tremendous taxation. Those were the days of John Company of blessed memory. He was as loyal a subject as any one present, but he hoped he would be pardoned if he said that he would be glad to see those days back. He did not deny that the direct rule of the Queen and Empress had been productive of manifold blessings to India, but, on the other hand, he could not deny that it had been synonymous with taxation in various forms—imperial, provincial and municipal. So far as their beloved Sovereign herself was concerned, she had reigned over the people of India through her direct representative for nearly twenty years; they all knew that she cherished the warmest solicitude for their welfare; no calamity had befallen them, which had not evoked her warmest sympathy and generosity, and when Her Majesty would come to know that under her direct rule the people were groaning under heavy taxation, that a single year's drought brought them to the point of starvation, there could hardly be room for doubt that Her Majesty would exercise her regal influence in lightening their burdens.

Having said this much he would proceed to lay before the meeting details, showing the manner in which military expenditure had so rapidly and inconveniently increased. In 1862-63, the military expenditure in India had been 12½ millions; that was the

amount which Lord Canning had told them ought to be the normal army expenditure of India. The number of European troops at that time in the country was 75,000 men. In 1877-78, the expenditure was $16\frac{1}{4}$ millions, while the number of European troops in the country was only 62,000 men; so that although there were 13,000 troops less, the charges were nearly four millions sterling more. There had been no sudden, but a gradual and steady increase. In 1875-76 the total military expenditure, was in round numbers, $15\frac{1}{4}$ millions; the number of European troops then in the country was 62,850. In the course of less than three years, the military expenditure mounted up to $16\frac{1}{4}$ millions—an increase of one million sterling. Had there been an addition of a single European soldier to the army? No. In 1875-76 the number was 62,850; in 1877-78 it was 62,652, so that although there was a slight reduction of two hundred men, there was an increase of one million in expenditure. Now, he would ask where was this expenditure to stop? Even all the diamonds of Golconda would not suffice to meet the charges if they were to continue increasing in this ratio. Then as to the Home military charges, in 1862-63 they were £4,168,000. These Home military charges were divisible into several component parts. First, was the recruiting charges, next came marching money and cost of conveyance, thirdly, there was the transport service, and lastly, pensions. Now, the recruiting charges under the East India Company for the average ten years ending 1859 had been £19-10 $\frac{1}{4}$ d. per head; how had they developed since? They were now £136-13-11d. for cavalry; £63-8-5d. for infantry; £78-14-8d. for Royal horse artillery; £59-2-18d. for Royal artillery mounted, and £58-9-3d. for Royal artillery. It would be seen from the appendix—the memorandum prepared by the Committee of the British Indian Association—which had been circulated to the meeting, that if every reasonable allowance be made for increase of charges, still they ought not to come up to anything like the amounts stated. It could not, in fact, be characterised otherwise

than as an unreasonable, illegal, inequitable, unrighteous increase of charges. Then as to the charges for marching money and the conveyance of recruits, it originally amounted to 16 per cent. on the pay from 1865 to 1870 ; the average number of recruits annually raised appeared to have been about 15,000 ; the average amount for marching money and conveyance of recruits was £11,666, being about 15s. 6d. per recruit, while the charges now made against India for the service were, for cavalry, £3-8-11d., and for infantry £1-19-9d. Next as to the transport service, the charges were so exceedingly heavy, that after careful examination it was the opinion of many competent officers, notably of General Johnson and Mr. Kellner, that it would effect a saving of no less than twenty lakhs of rupees per year, if the transport service were dispensed with, and merchant vessels of the Peninsular and Oriental Company were employed for the transport of troops. It should be observed in connection with this subject, that the transport vessels lay idle for no less than five months in the year, and the pay of the officers and men during that time was a mere waste of money. Then came the pension charges. This item had a peculiar history of its own. Until 1860 a sum of £60,000 was paid from the Indian revenues in full discharge and satisfaction of all claims for retiring pay and pensions of British troops serving in India, but the fixed payment was superseded in 1861 by a capitation rate of £3-10 a head on the number of troops actually serving in India. The law under which this rate had been charged expired in March 1867, but the charge had, nevertheless, been continued, and it had now been held by the War Office authorities that it was fair to divide every imperial charge at home between England and India in proportion to the benefit derived by each country. Now whatever might be the merits of this principle, on every adjustment of accounts the charge had increased against India from £939,000 in 1860-61 to £1,331,000 in 1877-78, though, as had already been shown, the number of troops serving in India had greatly decreased. Was this an intelligible and honest principle

or rather was it not a haphazard, high-handed adjustment of accounts? The War Office had laid down a certain sum, and that sum must be paid. The India Office and the Government of India could not interfere in the matter. England supplied the troops, and India was bound to pay whatever the conscience of the War Office demanded.

Then it had been said that the principle on which the Military charges had been apportioned between England and India was one of joint partnership. Now, could a joint partnership exist between a giant and a dwarf? England was rich; India was poor. England governed herself through her House of representatives; India was scarcely able to send forth her voice across a distance of ten thousand miles. Here and there indeed there were a few Englishmen, disinterested, philanthropic, warm-hearted Englishmen, who took an interest in the affairs of this country; but that was all. And yet they were told that the adjustment was conducted on the principle of joint partnership. If they examined the practical working of this joint partnership, what would they find? That on no less than seven occasions troops had been borrowed from India, first, for the China expedition, next for the Crimean war, thirdly, for the Persian expedition, fourthly, for the second China expedition, fifthly, for the first New Zealand expedition, sixthly, for the second New Zealand expedition, and seventhly, for the Abyssinian expedition. All these were imperial undertakings, but India had to furnish the troops with their pay and allowances. England, in fact, borrowed, and India paid. On the other hand reinforcements were sent from England to India for the Sutlej campaign of 1846, the Panjab campaign of 1849, and for the Mutiny campaign of 1857-58. How did India meet her liabilities in these cases? She had to pay every fraction of the pay of the troops from the moment they left England. This was no matter of complaint; it was nothing but right that India should pay as she did; but the people did complain, and very rightly too, when England refused to

pay her legitimate dues. Now the question arose—was England as just to her other colonies? If a comparison were made of their treatment with that of India it would be seen that while the cost of the Colonial Office was charged to the English Treasury, that of the India Office was charged to the Indian Treasury. The cost of the Colonial garrisons was paid chiefly from the English Treasury, while the Indian Treasury not only paid for the Indian garrison, but paid a good deal more besides. Further, all insurrectionary movements in the colonies were met and suppressed at the cost of the Imperial Exchequer, while the cost of the Sepoy Mutiny had to be borne by the Indian Treasury. Then again balance the benefits which England derived from India and the colonies respectively. If this matter were looked at with an impartial eye, it would be readily admitted that India was undoubtedly the brightest gem in the diadem of England. It had been alleged by Viscount Cardwell that England had to maintain large bodies of European troops for India's protection. He emphatically denied this position. It was for her own safety, for her own military glory, for her own imperial policy, that England maintained these troops. On the contrary, the Indian army served as a most efficient reserve for England. Up to the outbreak of the Crimean war, England had enjoyed forty years' uninterrupted peace in Europe, and during that time India was the best school for her soldiers. It was in India, that the Iron Duke, the hero of Waterloo, the conqueror of Napoleon, had his training; it was in India that many of the Crimean heroes first fleshed their swords; it was in India that the veteran soldier, to whom all England now turned as the Commander-in-Chief of the British army, should a war break out with Russia, was schooled and nurtured, and if for no other reason, at any rate for this tribute in military strength, which India thus contributed to England, she deserved a generous consideration in the apportionment of her military charges from the imperial country. But what had England done in return? She had not even guaranteed the Indian loans. The fact that

India was the best school for England's soldiers was ably put forward by his Grace the Duke of Argyll in his correspondence with Lord Cardwell in the following words :—

“But I have further to point out that all arguments which imply that India is nothing but a burden and a cause of embarrassment in military affairs, are arguments inconsistent with many notorious facts—with the anxiety of officers to secure Indian employment, and with the advantages which Indian exigencies afford in the way of augmentations and promotions in the army. It is well-known that India offers the best, if not indeed the only, training ground for the British army in time of European peace ; that as Indian pay and allowances are much higher than those given to the army either at home, or when employed elsewhere abroad, Indian service is highly popular in the army, and that in consequence of the liberal treatment which, up to the present time, the Government of that country has been enabled to bestow upon the officers and men, it has contributed one great inducement to members of both classes to enter the British army ; and, moreover, that under the new army organisation by which Her Majesty's Government hope to augment the military power of the country, and save the expense of pensions by the introduction of a short service system and the establishment of a reserve, a very large, and certainly not the least valuable, portion of that reserve will consist of men whose entire military training and experience will have been acquired at the expense of the people of India.”

Now, the principle on which the Home military charges of India were apportioned was not only against morality, against equity, but against the law laid down by Parliament. First as to the effective services, Act 28, George III, Chapter 8, Section, I., empowered the Board of Commissioners for the affairs of India to defray from the revenues of India “all the expenses incurred, or to be hereafter incurred, for raising, transporting and maintaining such forces as shall be sent to India for the security of the said territories and possessions, in addition to the forces now

there." Further, Act 33, George III, Chapter 52, Section 128 enacted, with reference to the Home charges of British troops in India, that "all sums issued by the said Pay Master General of His Majesty's forces for and on account of His Majesty's forces serving in India, or for raising and supplying recruits for the same, shall be repaid by the said Company; and that the actual expenses only, which, since the 24th day of December 1792, have been, or which hereafter shall be incurred (in India) for the support and maintenance of the said troops, shall be borne and defrayed by the said Company." Act 58, George III, Chapter 155, Section 87, declared that "it shall not be lawful for the Commissioners for the affairs of India to give or approve orders or directions, that these shall be defrayed and allowed out of the revenue" (of India) "in respect of His Majesty's forces sent, or to be sent to the East Indies, any sum of money, in respect of any greater number of His Majesty's forces, than shall amount, in the whole, to twenty thousand men including the commissioned and non-commissioned officers, unless any greater number of His Majesty's forces shall be sent to the East Indies on the requisition of the said Court of Directors." Again Act 21 and 22 Vict. Chapter 106, Section 55, provided that, "except for preventing or repelling actual invasion of Her Majesty's Indian possessions, or under other sudden and urgent necessity, the revenues of India shall not, without the consent of both Houses of Parliament, be applicable to defray the expenses of any military operation carried on beyond the external frontiers of such possessions by Her Majesty's forces, charged upon such revenues." Then as to non-effective services, Act 4, George IV, Cap. 71, recited that "no provision has been made for the charge incurred for retiring pay and pensions, and other expenses of that nature arising, in respect of His Majesty's forces serving in India; and that the said United Company, in consideration thereof, have agreed to pay for those purposes the said annual sum of £60,000. Be it therefore enacted that over and above all sums of money now payable by the said United Company, in res-

pect of His Majesty's forces serving in the East Indies, the annual sum of £60,000, to commence from the said 30th April 1822, shall be paid out of the rents, revenues and profits accruing from the said territorial acquisitions, in full discharge and satisfaction of all claims upon the said Company for retiring pay, pensions and other expenses of that nature, granted or payable by His Majesty or by authority of Parliament or otherwise, in respect of any of the forces of His Majesty which have served, or are now serving, or which hereafter may serve in the East Indies."

Now nothing could be more clear and definite than the law on the subject, but it did seem strange how Her Majesty's Government had gone on year after year committing these illegalities, these iniquities. So far as the Government of India was concerned, he was bound to point out that it was an earnest advocate for not only reduction of military expenditure, but also for an adjustment of the home expenses of the Indian Army on a fair and equitable basis. In 1869 Lord Mayo had moved in the matter, and His Lordship had been followed up in 1873 by Lord Northbrook. Lord Northbrook's example had not been lost on Lord Lytton, and he might say without breach of confidence that Lord Lytton had lately addressed to the Indian Council a forcible despatch on the subject. But how was it that the efforts of the Government of India generally proved fruitless? The fact was that in the Indian Council there was a preponderance of Madras and Bombay members, who were not unoften opposed to schemes emanating from Bengal. Some time ago Lord Sandhurst (then Sir William Mansfield) and after him Lord Northbrook, had recommended the abolition of two out of the three Presidency commands as not necessary in these days of universal telegraph and railway communications, but their recommendations were not adopted, because the Horse Guards were too powerful for them. So far as the relations between the War Office and the India Office were concerned, no better proof of their unsatisfactory character could be had than the evidence

given by Lord Salisbury before the Committee of the House of Commons in 1874. He would read what his lordship had said, in answer to certain questions put by Professor Fawcett :—

Q.—“Then it comes to this simply, without saying whether any one is justified or not in doing it, that throughout the existence of an administration the Secretary of State for India is aware that India is being unjustly charged ; that he protests and protests, again and again ; that the thing goes on, and apparently no remedy can possibly be obtained for India unless the Secretary of State is prepared to take up this line, and say ; ‘I will not submit to it any longer ; I will resign ?’”

A.—“It is hardly so strong as that, because the Secretary of State, if his Council goes with him, can always pass a resolution that such and such a payment is not to be made ; but, of course, any Minister shrinks from such a course, because it stops the machine.”

Q.—“You have these alternatives ; you must either stop the machine, or you must resign, or you must go on tacitly submitting to what you consider to be an injustice ?”

A.—“Well, I should accept that statement barring the word ‘tacitly’ ; I should go on submitting with loud remonstrance.”

Q.—“Taking existing facts, what has occurred is that the Secretary of State has gone on submitting with these loud remonstrances. It is difficult to conceive, I think, of stronger remonstrances written by one member of the Government to another member of the Government than are contained in that correspondence ?”

A.—“Well, I would not venture certainly to write any stronger myself.”

Q.—“Then what I understand your Lordship to mean is this, that after all, the great security for India to obtain financial justice is this, that India should have a Secretary of State who should do all in his power to secure her justice, and that he should, out of doors, be supported by the public opinion of the English people, and by the sympathy of the House of Commons ; that that is his great strength after all ?”

A.—“That is undoubtedly his great strength ; and if the House of Commons will keep a sufficiently sharp eye over these matters, I do not imagine that there is any serious danger of India being oppressed ; but there is a constant tendency, of course, on the part of the departments at home, which have such enormous inducements to save, to get money where it may be had without resistance or difficulty.”

This was the confession of the Secretary of State—that there were departments in England which would not hesitate to take as much money as they could if they could do so without difficulty, and Lord Salisbury was of opinion that India's only strength lay in the House of Commons. So the House of Commons was their only hope. Once a great English orator said that if India were ever lost to England, it would be lost in the House of Commons. He, of course, referred to the ignorant interference of the House of Commons with the affairs of India. But in this case it would be seen that if India was to be saved, she could be saved only in, by, and through, the House of Commons, and to that House we proposed to appeal. India had no representative assembly ; she had no powerful party interests to serve her ; her affairs did not affect the fates of political parties in England ; her children were dumb and weak ; she could only appeal to the sympathy, to the sense of justice, to the conscience of the great nation, which, under a Divine dispensation, ruled her destiny. It was often said that England's power in India rested on the rock of justice, and it was now proposed to appeal to her for justice. He did hope that the great British nation, which shewed such warm and generous sympathy in her late calamity, would not turn a deaf ear to their appeal, and refuse to render that financial justice to her for which she had cried in vain for years. Let us then petition Parliament, and leave the rest to Providence. With these remarks he would move the resolution.

SPEECHES

AT THE

ANNUAL DINNERS OF THE TRADES' ASSOCIATION.

I

At the annual dinner of the Trades' Association held on 30th January, 1873, at the Town Hall, Mr. J. B. Knight proposed the toast, "The Native Press." Baboo Kristo Das Pal, in responding, said :—

Master and Members of the Trades' Association,—I thank you most heartily for the compliment you have paid to the Native Press and me personally by drinking so cordially to the toast which has been so kindly and eloquently proposed by my friend, Mr. Knight. Although I have not been able, for reasons with which I need not trouble you, to enjoy the dainties of your splendid banquet, and for which I beg you to accept my best and sincerest apology, I feel not the less grateful to you for the honour you have done me by inviting me to this "feast of reason and flow of soul." Gentlemen, this is the first time in the history of social gatherings of this kind in India that a representative of the Native Press has been asked to acknowledge the compliment paid to it, and I feel not only highly flattered by it, but also take it as the harbinger of a new era of the many blessings which English rule has conferred upon India, the freedom of speech and writing, which it has taught us and fostered in us, being by far the most important. The very existence of a free press, conducted by the

natives of the country as a vehicle of their national thoughts and aspirations, and of their honest opinions on public measures and men, proclaims at once, I say, the high character and liberality of the Government under which it is our proud privilege to live; and I hold that this power in the hands of the people constitutes the best strength of our Government. Battalions which pride upon physical prowess are doubtless useful in extending conquest and protecting a country from foreign invaders; but thinking battalions which wage a bloodless warfare in extending the empire of reason and knowledge and subduing evil passions and internal enemies, constitute the most potent agency in securing and strengthening the material empire, by promoting the cause of order and good government. Many years, I fear, must pass away before the Native Press of India can hope to fulfill its mission; it is now in its infancy, and its conductors are fully conscious of its numerous imperfections. None is better aware than my humble self that it has much to learn and unlearn, and it is to me most gratifying to hear the kind testimony borne to the character and position which it has already attained. But if the Native Press has been at all useful, not a little of that usefulness has been owing to the mighty and healthy influence of the Briton in India. It was the independent Briton who nobly fought the battle of the Press, and got those serious disabilities removed to which Mr. Knight has referred; it is he who has strenuously urged the right of the tax-payer to a voice in the administration of the country; it is he who has led the van in the struggle for improvement and reform; and whatever the rights, privileges, and advantages he has acquired the Native of India has, as a matter of course, participated in them as a fellow subject owing allegiance to the same sovereign. To you, gentlemen of the 'Trades' Association, we are, not a little indebted for the examples of public spirit, union, and usefulness you have set. I again thank you for giving me this opportunity to express the obligation of my countrymen to the

representatives of the Queen's Government and of the British nation in this country for admitting them into the great guild of British freedom. May the bonds between England and India be closer and stronger as years roll on; may the two nations become one in feeling though they differ in language and religion; and may India never have cause to feel that she is under a foreign yoke! This is my heartfelt and most earnest desire, and the right hand of fellowship which you have extended to the members of the Native Press this night affords me a most gratifying assurance for the future.

II

At the annual dinner of the Trades' Association held on 26th January, 1874, at the Town Hall, Mr. Clifford Brookes proposed the toast, "The Native Press." Baboo Kristo Das Pal thus replied on behalf of the Native Press:—

Master of the Trades' Association and Gentlemen,—The annual dinner of the Trades' Association has become an established institution of this great city, and I consider it an honour to be invited to share its intellectual part, which is no less congenial than the more substantial part, to which you just now addressed yourselves, and to which I dare say you have done full justice. Gentlemen, there are so few opportunities for the various races inhabiting the metropolis of the British Indian Empire for the interchange of thought and reciprocation of good feeling that too much value cannot be set upon this social gathering, where the rulers of the land forget for the moment the cares of the state and strife of politics, where the cheering glass chases away the gloom of political faction, and where above all, reigneth the genial light of peace, friendship and good will. I thank you heartily and sincerely for the enthusiasm with which you have drunk this toast, and my friend the proposer for so kindly coupling the Native Press and my name with it. Last year, gentlemen, it

was my pleasing duty to acknowledge with gratitude the blessing which the British Government has conferred upon the people of India by giving them the freedom of the Press, a freedom which some of the advanced nations of Europe, occupying the foremost places in the scale of civilization, do not yet enjoy and which has been won for India by a band of stout-hearted and glorious Englishmen, whose names will shine in the pages of history with increased effulgence as British India will progress in the march of intellect and the empire of thought. They were the Broughams and Wilberforces, who freed this country from intellectual thralldom; and our children's children will bless their memory for lighting in the East the torch of free thought and free expression which had never before been lighted there. The Freedom of the Press, this rich heritage, which it is our privilege to enjoy as loyal subjects of her Britannic Majesty, has been given us, I may say, without a single effort, a single sacrifice, on our part. It has come to us, like many other privileges so highly prized by us, as a part of that Bill of Rights which allegiance to the British Crown carries, as a logical and moral sequence of that perfect equality before the law which the British Constitution recognizes and fosters. How much then do we owe it to ourselves, to the British Government and to the British nation which has been so kind to us, that we should make a proper use of this great privilege, that we should employ it as an instrument for the diffusion of sound knowledge and good ideas, that we should make it a means for cementing an union between the rulers and the ruled by rightly interpreting the one to the other, and *vice versa*.

The primary functions of the Native Press I take to be the interpretation of the wants, wishes, sentiments and feelings of the people of India, who have no other means of making their voices heard; and in endeavouring to perform this task my motto has always been—Loyalty to the British Crown and Justice to the millions of India. Whatever the shortcomings of the Native Press, I believe, gentlemen, you will testify that it has never lost sight of

its cardinal principle—it has never faltered in loyal devotion to the power which has given it the breath it breathes, and the strength it wields. The native journalist, as you are aware, has a difficult task to perform. He has to give a tongue to the millions which are dumb, to give body and shape to their thoughts and feelings, and not, like his brother in more favoured climes, to serve only as a foreman to a body of sturdy thinkers; but not less do the masses of India think and feel than you all do when you are overridden or downtrodden, when you are burdened with oppressive taxes, robbed of your just rights, wounded by the pride of place, or denied much-needed justice. As the public exponent of his nation he must criticise both measures and men; and if any one thing bears him up more than another in the performance of this arduous work, it is the generous sympathy of educated and independent Englishmen like yourselves, who appreciate the value of honest and free expression of opinion, and who always befriend the poor and the weak. In the battle of politics in Europe the representatives of commerce and trade have always taken a most prominent part; and to them is due a large share of the credit of maintaining the liberty and freedom of the people against the encroachment of power. The free townships of Europe are the monuments of their love of liberty, and what your conferees have done there, you have always attempted most nobly and not unoften with marked success in this country.

There are those who taunt the English as a nation of shopkeepers, but they forget that it is the shopkeepers who have built up the grand fabric of constitutional liberty, which defies the waves of popular frenzy and the storms of political passion, the like of which is not to be seen in any other part of the world, and who have proved the most eloquent preachers of the gospel of free thought and free speech, wherever they have planted their foot and flag. Gentlemen, I again thank you for the hearty reception you have given to this toast, and the kind compliment you have paid to the Native Press.

III

At the annual dinner of the Trades' Association held on 28th January, 1875, at the Town Hall, Mr. H. Elworthy proposed the toast, "The Native Press." The Hon'ble Baboo Kristo Das Pal acknowledged the toast, on behalf of the Native Press, in the following terms:—

Master of the Trades' Association and Gentlemen,—I thank you most heartily and sincerely for again inviting me to this your very interesting annual re-union, and again allowing me the privilege of acknowledging the compliment to the Native Press. Last year, several speakers, who have preceded me, have reminded you, we met under the shadow of a dire calamity threatening millions of my fellow-countrymen with starvation and death, but thanks to the All-Merciful Providence, the sore trial with which it had pleased Him to visit us, has ended ; the gloom which hung over us has given place to sunshine ; anxiety and sorrow which it brought us have been succeeded by the hope that cheers, and the joy that gladdens. Plenty now smiles over the land and the poor men, women and children, who, pinched by that dread enemy, hunger, last year by thousands and tens-of-thousands crowded at relief centres for the daily pittance to keep their body and soul together, have with the return of Nature's favour gone back to their homes and avocations. Gentlemen, we hear much of the want of sympathy between the European and the Native, but whatever may be the failings of individuals no one can deny that the British Government and the British nation have shewn a most lively and generous sympathy for their Indian subjects in this hour of adversity ; and I can assure you that my countrymen feel deeply grateful for it. Rich as you are in the traditions of your prowess and power nothing can exceed the glory of the trophy, which the Indian Government has achieved in fighting so skilfully and successfully the battle of humanity ; while history records the triumphs of the British arms at Assaye and Laswaree, on the plains of Chillian-

wallah and Loodina, in the recapture of Delhi and the relief of Lucknow in the memorable war of the Sepoy Mutiny, no page in the annals of the British progress in the East will shine with greater lustre than that in which she will chronicle the brilliant achievements accomplished in the campaign against the Bengal Famine of 1874, with the calm courage, untiring energy, and noble self sacrifice with which all from the highest to the lowest worked in this good cause. Here was a demonstration of sympathy not confined by geographical boundaries or partitions of race and religion, not flowing from the lip but gushing from the heart, not shewn to the rich who could always exact their dues, but the poor and forlorn, to dumb millions, who could not speak, whose voice could not reach their august rulers, but who, in the heart of their hearts, blessed the fatherly hand that gave them rice while they were hungry, and water while they were thirsty. Such sympathy constitutes the golden chain, which will securely bind India to England, despite the storm of political tumult and the war of foreign aggression. Gentlemen, the place which you have assigned for several years past to the Native Press in your toast implies that you have confidence in that Press, and I thank you for it not only on my own behalf, but also on behalf of the whole body of my brethren of the Native Press. Until the advent of the British, as the proposer of the toast has rightly observed, the press as an institution, as a vehicle of the thoughts, sentiments, and feelings of the nation was unknown in this country ; the tongue was always tied under the Oriental Government, the people, when oppressed beyond endurance, did not resort to the pen, but the sword for the vindication of their rights. But under the happy auspices of the British Government that state of things has changed. There is no restraint upon the tongue or pen of the Indian to express his inmost thoughts, to represent his grievances, to seek for redress, so long as he does not forget his duty as a loyal subject of the Queen and I am proud to say that whatever may be the shortcomings of the Native Press, it has rarely been

found wanting in that prime qualification for the liberty which it enjoys, I mean loyalty to the Crown. Gentlemen, I need not urge upon you the difficulties which beset the conductors of the Native Press. They are inseparable from the Government of this country by a foreign nation. However intelligent, sagacious and sympathetic, the English in India labour under a peculiar disadvantage. Though descended from the same stock which, in the dawn of human history, sent forth its teeming millions westward to people Europe and southward to people India, they are for all practical purposes alien by birth, language, customs, and religion. They are necessarily perplexed in mastering the complicated problems of Indian administration, and are consequently under the necessity of employing interpreters to interpret the rulers to the ruled and *vice versa*. Marvellous as has been the success of the British rule in the East, I believe I do not exaggerate when I say, and I am glad to find my statement corroborated by our distinguished Foreign Secretary, that success could hardly have been achieved if the English rulers of India had not from the beginning availed themselves of Indian experience, Indian counsel and Indian co-operation. The Indian holds the key, wherewith to open the gate of the East, and if our Western rulers had not used that key, not all the bayonets and guns of England, not all her countless treasures, would have sufficed to build up her magnificent Eastern Empire, justly prized as the brightest jewel in her diadem. The conductors of the Native Press are the unpaid interpreters of the Government and the nation; they may be misinformed, misled and mistaken, but they act in good faith, and endeavour to interpret the governors to the governed and the governed to the governors, loyally and faithfully. In discharging their duties it not often falls to their lot to expose abuses and oppressions, to lay bare the failings of individual officers, and to criticise unreservedly both measures and men, and in doing so, they not unfrequently incur the displeasure, I regret to add, sometimes the personal hostility of those upon whose horns they tread, and possibly the hue and

cry now and then raised against the Native Press proceed from these sources. But I believe really thoughtful and enlightened Englishmen, who care more for the character and permanency of British rule as an engine of good for the millions under its sway than for their own temporary and limited interests, like such outspokenness, though the language may resemble the feeble utterances of these who have but learnt to lisp. If the Native Press were to circulate only tales of adulation, what would the Government or the people gain? For my part I believe that the real usefulness of the Native Press consists in an unvarnished statement of facts illustrative of the working of the laws of the action of the vast administrative machinery, and the under-current of the social and political feelings of the people directed by such laws and actions—facts which the Government and the European public have no other means of ascertaining: and it sometimes errs in making such statements, there are many forces at work for its correction. But, gentlemen, bear in mind that the Native Press of India is a plant peculiarly entitled to your fostering care, it has grown from a seed brought from the West, the manure which has contributed to its growth is derived from that fertilizing knowledge, which Englishmen have diffused in this country—it is not knowledge drawn from your books only, but also from your precepts, from your examples, from your personal influences—and if the tree presents a good appearance, the glory is the greater to you to whom it owes its existence, to the liberality of your principles, to the kindness of your feelings and to the highminded statesmanship, which characterize your rule of this country. Gentlemen, this is not the place to exchange with Junior Jupiter the thunderbolts which he has thought fit to hurl against the Native Press, but permit me to say that he is about as well informed of the circulation as of the politics of the *Patriot*.

IV

At the annual dinner of the Trades' Association held at the Town Hall, on 29th January 1878, Mr. Wyman proposed the toast "The Press." The Hon'ble Baboo Kristo Das Pal in responding spoke as follows :—

Master, Wardens and Gentlemen,—On behalf of myself and my brethren of the Native Press I thank you most heartily for the enthusiasm with which you have drunk this toast, and my friend, the proposer, for the honour he has done me by coupling my name with it and for the very flattering terms in which he had kindly spoken of me. By a beneficent dispensation of Providence England and India have been united in a happy bond, no less for the good of the governing country than for that of its distant dependency, and our auspicious meeting to-night is a symbol of that union. It is a common saying "union is strength" and in India the union of the two races is the essence of social and political life. In the varied occupations of every-day existence, neither the Indian nor the European in this country can fight the battle of life without mutual aid, mutual co-operation and mutual sympathy. The Europeans sojourning in the land are but a handful of men compared with the teeming millions, who are the children of the soil, and at every step they take they stand in need of Indian help. The merchant supplying the wants of one part of the world with the products of another; the manufacturer employing his skill and industry; the tradesman ministering to material convenience and comfort; the law-giver making laws; the lawyer interpreting them; and the Judge administering them; and the magistrate maintaining peace and order; the soldier protecting the country from foreign aggression and internal commotion; and the statesman steering the vessel of the State; all, all I say, in their respective spheres want the help and co-operation of those amongst whom their lot is cast. In the same way the Indian is dependent upon the European. It is the European who, by opening ou

new fields of enterprise and industry, contributes to the means of his subsistence, who brings the fabrics which clothe him, who pours into his mind the treasures of knowledge which make him feel that he is a man and a brother, who gives the law which protects his person and property, who preserves peace and tranquillity and thus enables him to pursue his avocations with profit and success, and who, above all, by precept as well as by example, teaches him the higher aims of life—manliness, self-reliance and independence. The destinies of the two are also closely bound up. India is the glory of England and England the strength of India. England cannot now withdraw from India without darkening the halo which surrounds her, and India cannot suffer the separation without a pause to that quickening impulse which has revived her national life and resuscitated her national energy. The union of the two is thus essential to their mutual existence, and what could be a nobler sight than to see the children of both, recognising their mutual relationship, forget the differences of race, religion and feeling, and work in harmony and sympathy for mutual good and happiness. So far as this annual reunion of the Trades' Association serves to tie the representatives of the two classes in a bond of social friendship and civic amity, I look upon it as a moral force of the highest value.

Gentlemen, addressing, as I do, a company of Englishmen, with whom freedom of speech and writing is a birth-right, I need not expatiate on the advantages of a free Press. In this country the Government by reason of its peculiar position is despotic; but it is a despotism tempered not by red tape, telegrams or telephone as humorously remarked by my friend Mr. Mackenzie, but by public opinion, and the Press is the exponent of that opinion. According to the estimates of various speakers to-night our councils may be shams, our Municipal Committees may be shams, but our Press, I make bold to say, is *not* a sham. The Indian Press both European and Native is a living reality. There

may be those, as my friend Mr. Knight said, who may choose to argue that there is no such thing as public opinion in India, who are, perhaps, not slow to repress it if they can, but the public in India do think, do feel and do speak as the public in other civilised countries ; and if the Press is not strong, it is not because the cause it advocates is weak, or the principles it enunciates are weak, or the thoughts and feelings it gives utterance to are weak, but because the sympathy it receives from the powers that be is neither sufficient nor strong. The Press in this country has always had an up-hill work. It won its freedom by battling long, bravely and fiercely with inveterate prejudices, unbending exclusiveness, and ruthless intolerance. But it has steadily made its way and need its own. Time was, as remarked by my friend Mr. Wyman, when Indian journalism was looked upon as a degrading calling, when knights of the quill—I hope my friend who has preceded me will not consider this as a pun upon him—were hunted after as so many pariahs of Indian society. But a better day has dawned upon us. Few there are, I do not hesitate to say, who would now dare deny the claims of the leaders of the Press. Some of the ornaments of the Indian Press have come from the ranks of the great services which rule the destinies of the country. I am glad to be able to say that our humble efforts to represent public opinion have not been without some reward. If the Press constitutes the Fourth State in the United Kingdom, the Indian Press, after years of toil and trouble, has come to be recognised as an ally of the State in the good government of the country. Under the auspices of the noble statesman, now at the head of the Government, himself a *chivalier le plume*, and an hereditary champion of letters, the relationship of the Government with the Press, as has been already remarked by Mr. Knight, has been placed on a far more satisfactory footing than before. To that august assembly of proconsuls, princes and nobles of the land at Delhi on the 1st January 1877, when the auspicious event

of the assumption of the Imperial Title by Her Gracious Majesty the Queen was celebrated, His Lordship did not hesitate to invite the humbler scribes of the Press as his own guests. Since then, seeing that the Press cannot circulate the truth unless it knows the truth, His Lordship has made special arrangements under the direction of a well-known labourer in the field of journalism to place at the disposal of the leading journals of the country early information and important papers about State affairs. I hope the generous spirit, which has dictated this alliance between the Government and the Press, will pervade the whole ruling body throughout the country and that the paid servants of the Crown will co-operate with its unpaid servants, the conductors of the Press, in advancing the common cause, I mean the good of the people.

One word more. In the general prosperity which attended the Indian Press, and which has been so well described by my friend Mr. Wyman, the Native Press has been a humble participator. Compare its position and prosperity twenty years ago, with the same to-day, and, I believe, you will allow that it has made a rapid and cheering advance—advance in number, strength, knowledge, character, tone and influence. It has certainly faults of which I am fully conscious; but time, example and friendliness will correct them. Human nature is human nature all the world over, and it is no wonder that when the self-love of men, whether in power or otherwise, is wounded, they should smart or grow restive. Hence it is, I am afraid, that the Native Press is now and then sharply criticised; but I do not complain of this; I think that those who are accustomed to hit, ought not to complain when they are hit back, for criticism is always healthful; only let it be fair, reasonable, just, and if you like, generous criticism. A handsome testimony to the usefulness and influence of the Native Press has just come from a gentleman, whom we all respect—I allude to Sir James Stephen. In his second letter to the *Times* in reply to Mr.

Bright, Sir James says, "I have known numerous cases in which statements in Native papers led to enquiry and several in which they influenced legislation. To my own personal knowledge various sections in particular Acts were inserted in consequence of articles in Native papers." In the field of journalism, as in other walks of life, the Indian as well as the European, as I have said at the outset, need each other's help, co-operation and sympathy. I am glad to see that a spirit of mutual co-operation is springing up amongst the members of the European and the Native Press, and I hope it will go on and strengthen. The progress of the Native Press is a proud monument of English civilization in the East; and if no unkind hand cuts it short, it is destined to prove a mighty instrument in the regeneration of India. It is now our turn to borrow from you the light that travelled from the East to the West; spare it not, stint it not, shut it not from us.

V

At the annual dinner of the Trades' Association held at the Town Hall, on 30th January, 1878, Mr. J. H. E. Beer proposed the toast, "The Press." The Hon'ble Baboo Kristo Das Pal in responding spoke as follows :—

Master and Members of the Trades' Association and Gentlemen,—I was quite unprepared for the friendly call made upon me. Until I had taken my seat at your festive board I was not aware that I would be called upon to respond to the toast which has been so ably and gracefully proposed by my friend to my left, but I will do so with great pleasure, and offer my most sincere and hearty thanks for the kind terms in which the Native Press has been mentioned and the handsome way in which my name has been coupled with it. We have heard the warning voice of your good Master against the fleeting pace of time, and I must, therefore, be brief. Gentlemen, it has been my proud privilege for some years past to describe to you the progress which the Native Press has been making from year

30 year under the auspices of British rule, under the genial sunshine of British co-operation, and under the invigorating influences of British example. I cannot look back at the history of the past year without feeling a deep pang of sorrow at the attitude assumed by the Government towards the Native Press—at the blow aimed at it. The last year was one of severe trial for the Native Press—I should have said the Vernacular Press ; for the law made a distinction between the English and the Vernacular papers conducted by Natives. This distinction was evidently based on the principle that English education was a guarantee of Indian loyalty. I am glad that the effects of English education are thus appreciated by Government. I am an advocate of English education. I hold that the wider the blessings of English education are diffused, the more effectually will the best interests of the country be subserved ; but I hope it would not be assumed that those who had not the good fortune of receiving English education were not loyal to the British Crown. The masses, the millions, do not know English, but their hearts are loyal to the core. It could not be expected that the millions of this country could all be educated in English : indeed no nation could attain to real greatness without a literature of its own ; the masses must express their thoughts and feelings through the tongue which they learn at their mother's breasts. The Vernacular Press was, therefore, a national necessity, and any blow aimed at it was one directed against national progress and prosperity. Happily the cause of the Vernacular Press was amply vindicated by right-minded and enlightened men in this country, by the leaders of the English nation, and by the practical action of the Government. Like other laws, born of anger and excitement, and passed in haste, the Press Law, I hope, is destined to remain a dead letter. The moderation of the Vernacular Press has practically disarmed the action of Government and will, I trust, have the same effect in future. We have had a good example of the moderation of the Vernacular Press in connection with the Afghan war. There may be differences of opinion as to the equity

of the war, as to the equity of charging the Indian revenue with the expenses of it ; but there is one feeling among the people from one end of the country to the other regarding the progress of our operations. They all rejoice at the success of our arms on the Frontier. We have heard of late a great deal about Imperialism. It has been said that the new Press Law is a manifestation of Imperialism. I do not know what meaning is attached to the word Imperialism—whether it means the Napoleonism of France or the Bismarckism of Germany ; but of one thing I am certain, that if Imperialism means that the British Empire, that the Indian Empire, should be one in thought and feeling, if this be the Imperialism of our gracious-Queen Empress, we have nothing to fear, but everything to be grateful for ; but if the British Empire and the Indian Empire are to be one in thought and feeling, the same laws, the same institutions, the same influences that have raised England to the pinnacle of civilization and power and placed her in the vanguard of nations ought to be brought to bear upon India in order to produce the same beneficial results. One word more. The great Napoleon once taunted the British nation as a nation of shopkeepers. This, I may say, is not a reproach but should be considered a glory. These shopkeepers, it should be borne in mind, have been the pioneers of civilization in the world. They have been the storekeepers of progressive ideas and enlightened freedom. The people of this country could testify what blessings the shopkeepers of England have conferred upon it. They have revived the dead-bones of the Indian nation, raised it from the slough of despond, and imparted to it a resistless impetus for progress. The shopkeepers of Calcutta—I do not use the word in an offensive sense—have set a noble example before my countrymen. They are always foremost in acts of public spirit, public beneficence and public weal. They take an active part in local politics, and I can testify from personal knowledge how useful they have been in the deliberations of the Municipal Corporation of the town. If the Indian shopkeepers could imbibe their public spirit, their love of

liberty, their feeling of independence, their honourable emulation in the advancement of their interest by lawful and constitutional combination and generous support of the Press, the Indian nation would turn a new leaf in the book of its existence.

VI

At the annual dinner of the Trades' Association held at the Town Hall, on 30th January 1880, Mr. Womack proposed the toast, "the Press." The Hon'ble Baboo Kristo Das Pal in responding spoke as follows :—

Master, Wardens and Gentlemen,—I thank you most heartily and sincerely, on behalf of myself and my brethren of the Native Press, for the hearty honour you have done us and the flattering terms in which my name has been coupled with the toast.

Gentlemen, another twelve months have rolled away since we met last at your festive board, and what a concatenation of events, has there been in that brief space of time? We all know what has occurred in Afghanistan. When the year opened the British flag, waved over the mountain fastness of that country; little opposition was offered to our arms; our generals had simply to go in and win; then came the Treaty of Gundamuck which to all appearance terminated the war. But the fire was smouldering; it was not extinguished. It burst forth in an act of treachery and tragedy, which filled humanity with horror and indignation. In the heart of Cabul, under the shade of the Amir's protection and confiding in the Afghan's friendship, hospitality and word of honour Louis Cavagnari and his brave and glorious band were, on a sudden overwhelmed with a surging wave of blood-thirsty insurgents; and though they fought to the last,—not man to man, but one man against hundreds and thousands—they were at last overpowered by sheer force of numbers. Oh, what a falling off was there! True, the sun of British success suffered only a temporary eclipse; those

who knew the vast resources of England, the oaken heart of the British soldier and the calm courage of the British statesman did not for a moment doubt that the cloud would soon pass away. British honour has been avenged ; the British soldier is again the master of Cabul ; the British general is to all intents and purposes the Dictator of Afghanistan ; but alas the lives that are gone will never come back again. Where is that Promethean light which can reillumine the lamp of the life of Louis Cavagnari,—a soldier by instinct, born to command not simply men of peace but the wild children of nature, foremost at the post of danger, defying death in the discharge of duty, and destined to make a revolution in the land of the Afghans to the advantage of both Afghanistan and British India, if their foul and treacherous hands had not plucked off the flower just as it began to send forth its fragrance. Gentlemen, we do not know what the future of Afghanistan will be ; we may differ in opinion as to the equity of the Afghan war, as to the moral responsibility of England and India respectively to pay its expenses and as to the military policy which has guided the campaign ; but I think there can be no difference of opinion about this, that it has destroyed the Russian bugbear and torn into tatters the Afghan scare. The Muscovite has retraced his steps from the wilds of Afghanistan and the Afghan has shown that, though he is capable of giving much trouble from behind, he is no match for the British and Indian soldier in a face to face fight.

Gentlemen, if India has been involved in a bloody war in Afghanistan, there has been a bloodless war waged on behalf of her teeming millions, both here and in England—it is the war of public opinion. There have been recently many circumstances connected with the administration of this country, which have moved the heartstrings of the British nation and impelled its great leaders to vindicate the trust with an earnestness almost without a parallel in the history of India's connection with England. People's William, and the nation's pride, John Bright, have

been foremost in lending their ringing and powerful eloquence to the advocacy of India's cause. That sightless but stont-hearted champion of India, Mr. Fawcett, has been unceasing in his exertions for the advancement of that cause. That really good and great man, who wielded the Indian sceptre four years ago with such wisdom and beneficence, for which the people of India feel so grateful to him,—I allude to Lord Northbrook—has also contributed his share to that mighty stream of activity regarding Indian matters, which is now flowing in fertilising showers upon the soil of England. Opinion has been expressed in this assembly, attributing awakening of the English mind to Indian questions to party influences, party motives and party conflict; but we, who are vitally interested in it, trace it to a far more generous impulse, far higher influence, far nobler motive—we hail it as the voice of the awakened national conscience of England, as the throbbing of the inner heart of the great English people, as a promise of the due fulfilment of Britain's sacred mission in the East. Gentlemen, if England is great, it is not because her sons sway the sea, her banners wave over an empire in which the sun never sets and her commerce envelopes the world, but because she is the home of freedom, the asylum of oppressed men, the leader of hope to injured nationalities, and the prop of peoples who have, under the mysterious working of destiny, fallen off from their high place of old, but who yet possess vitality enough to recover their pristine strength. India comes under the last category. A beneficent Providence has placed us under the shelter and care of England, and a greater glory, I venture to say, cannot crown the head of Britannia than to raise this, her elder sister, the mother of the world's ancient civilization, literature and arts to her primeval proud position, by the diffusion of the blessings of knowledge among her children, and by teaching them to govern themselves under the ægis of her protection.

Gentlemen, as England becomes more and more alive to her

duty to India; the functions of the Native Press, as the interpreter between the rulers and the ruled, and *vice versa*, become more and more important, and are likely to be better appreciated. The millions of India are dumb, but the Press gives them a tongue. Though poets sung and philosophers spoke, when India was under her national dynasty, and though literary activity was not unknown, when the Moselm held sway over her, the people then knew not the blessings of a free press, and therefore remained mute. The right of free speech is a glorious heritage, which you, Englishmen, and your ancestors have brought into this country. It is a jewel above all price. It has made the Indian conscious that he is not a mere hewer of wood and drawer of water, that he is not a mere machine, but that he has a mind which thinks and a heart which feels, and that his rulers are anxious to know the promptings of his mind and to receive the outpourings of his heart. In that consciousness lies his own strength as well as that of the ruling power. His loyalty to the British Crown is not an ignorant allegiance of the subject to the sovereign, an outward symbol of the veneration of the weak for the strong, but an intelligent and satisfied acquiescence in the civilising and elevating influence of the British sceptre. Gentlemen, you have heard just now the hon'ble gentleman opposite (Mr. Chapman) describe the Government of India to be a despotism tempered by office-boxes with missing keys; but it has been rightly defined by another gentleman, to be a despotism tempered by public opinion; and the opinion, which now exists among the people of this country, is of its own creation. These did not ask for that freedom of opinion, which they now prize so dearly because they had never tasted it before; it was now given unasked and unsolicited. And blessed are the rulers who make such precious gifts to their subjects of their own free will and from their own sense of duty and responsibility, and happy the people who possess such magnanimous rulers. Notwithstanding the New Press Act, I am confident that the glorious privilege of a free expression of opinion which the British

Government has conferred upon us, will not in reality be taken away. And I feel the more confident from the compliment you annually pay to the Native Press, at this your national banquet, that you independent Englishmen, the custodians of British honour and freedom in this far land, will not suffer it to be taken away.

Gentlemen, I cannot conclude without saying one word about what has fallen from my friend Mr. J. D. Bell. He complains that I chaffed the European members of the Bar about their treatment of the native members. Now, gentlemen, I was always under an impression that a successful barrister generally carried a long memory ; no one would deny that my friend was a successful Barrister, but some how or other, his memory has failed him in the present instance. In the first place, it was a British Barrister, and not the *Patriot*, who gave the name of *Asia Minor* to the quarter of the Bar Library where the Native Barristers for the most part congregated ; and an esteemed correspondent of mine, who delighted in the name of *Fra Diavolo*, had made humorous allusion to this quarter of the Bar Library. In the second place, when my attention was drawn to it, and it was represented to me by some friends who were members of the Bar, that the Bar was aggrieved at the allusion made, inasmuch as it implied an invidious distinction between the British and the Native Barristers, which did not really exist, I immediately inserted a contradiction in my paper. If his memory had not failed him, my friend (Mr. Bell), I am asure, would not have made the complaint.

MINUTES.

CALCUTTA MUNICIPAL BILL

Dissent to the Report of the Select Committee on the Calcutta Municipal Bill recorded by the Hon'ble Baboo Kristo Das Pal conjointly with Mr. T. W. Brookes.

WHILE signing the report of the Select Committee we desire to record this our dissent on points on which we disagree with our colleagues.

I.—The water, police and lighting rates have been made payable in advance. The first is payable by the owner, the last two by the occupier. At present the water-rate alone is paid in advance ; but considering the pressure of municipal taxation in this town we are of opinion that the payment in advance is attended with hardship to the poorer class of rate-payers, and that the system ought not to be extended to the lighting and police rates as proposed. No branch of imperial revenue, we believe, is recovered in advance, and we are satisfied that there is no good reason why municipal taxes should be made payable in advance. It was urged by our colleagues that the municipality incurred a considerable loss of revenue by reason of frequent changes in the occupation of houses by tenants, which its officers had no means of knowing in time, and that even if they did know they could not realize the rate which was payable in arrear. This remark does not apply to the water-rate which is recoverable from the owner. As the owner is identified with the land or house he owns or occupies, the house-rate is made payable in arrear. On the same principle the water-rate ought to be made payable in arrear.

II.—For the purpose of the house-rate and the water-rate the owner of the land is declared to be the owner of the house

thereon, and will be charged with the house-rate and water-rate respectively, and also with the lighting and police rates where the assessed annual value of the house is less than Rs. 200, with power to recover the amount so paid as an addition to rent. We object to these provisions as unconstitutional and unfair. The theory of municipal constitution is that no person should be called upon to pay at a higher rate or undertake greater responsibilities than his neighbour for municipal purposes. The owners of houses when liable to any rate or tax should pay the same, just as much and in the same manner, as owners of lands; and if there be greater risk of collection in one case than in another, it is what those who have to receive the rate or tax should submit to. To shift that risk on any particular section of the community for the benefit of the Municipality and to afford perfect immunity from the trouble and annoyance of summary distress and warrant to those who are likely to be defaulters, involves denial of justice and fair play, and this is made the more glaring by the proviso that owners of only those plots of land, the assessed value of the houses whereon should be less than Rs. 200 per annum, should be subjected to the risk, and not those lands which bear more highly assessed property. In other words, the Municipality should collect directly from those who are substantial and from whom it is easy to collect, and through the agency of the landlord from those who are poor and from whom it is consequently difficult to realize, though he is not to be remunerated for his trouble, risk and responsibility. If it be a duty on the part of landlords to pay the taxes due for the property of their tenants, it should apply to all landlords alike without reference to the value of the houses on their lands. In equity, however, it applies to none, and none therefore should be subjected to so unequal a law. It is true that the existing law has a provision of this kind with reference to the police and lighting rates, limited to houses assessed at or under an annual value of Rs. 100, but it is founded on no principle of justice, and its operation has proved oppressive. The loss sus-

tained by landlords in realizing through their own servants and the Small Cause Court the rate due to the Municipality from the owners of small houses, which the Justices cannot realize satisfactorily through the more summary process of warrant, distraint and sale, is great; and to apply the rule to all kinds of taxes and rates would increase the loss manifold. A percentage of loss is inevitable in collecting money from a large number of rate-payers, and there is no principle of equity and justice under which the payee may be allowed to shift that loss in certain cases on third parties. This injustice we feel will be made the more oppressive on account of the difficulties under which the landlord labours in realizing his legitimate rent. The complaint is that the recent ruling of the High Court that a hut is removable, but immovable for purposes of distraint, has interposed great difficulty in the way of the recovery of rent, and it cannot therefore be just to make him liable for all the occupier's rates, and to direct him to recover his dues from the tenant as an addition to rent. Nor will the evil be confined to landlords alone; tenants will equally suffer from it, inasmuch as the poorer and more ignorant classes of tenants will be subjected to extortion and oppression at the hands of unscrupulous landlords and their servants. It is generally believed that under the existing law many landlords realize from their tenants the whole of the water-rate instead of the three-fourths prescribed by it. The duty of realizing the rates and taxes belongs legitimately to the Municipality, which has a large and highly paid establishment for the recovery of arrears, and we see no reason why it should be relieved of its legitimate duty.

III.—Unoccupied lands are at present not assessed. There are lands in the town which have rarely been occupied, and it is not to be supposed that the owner would wilfully leave them unoccupied if he could find tenants. As the Bill provides, the owner must keep them in good order. This obligation, we are of opinion would be a sufficient motive to him for letting them out. It would press unduly upon the owner, if he were made to pay half

rates for unoccupied lands, which derive no benefit from the Municipality and entail no additional duty on it, and which lie unoccupied from no fault of his. We may add that however necessary the busti regulations may be, they are stringent and may lead to desertion from the town, and in that case it would be a double hardship to the owner if he should lose rent and be made to pay the rates.

IV.—It is provided that the supply of water for domestic consumption may be charged at the rate of one thousand gallons to the rupee whenever it is in excess of the quantity covered by the amount of the water-rate paid by the occupier so calculated ; and that the Justices, that is the Chairman, may put on a water meter for the ascertainment of such quantity. The object of this provision is to prevent wanton waste of water. We are fully alive to the necessity of checking waste, but we believe that infinitely more water is wasted on the streets than in private houses, by the bursting of service pipes, and by reason of defective stand-posts and of wayfarers neglecting to close them, than by reason of defective fittings in houses, or neglect in securing water—not to say that the necessity of keeping houses dry operates as a check upon many householders ; but as regards private houses, the regulation of the size of the ferrule the periodical inspection of fittings by municipal officers, and the penalties prescribed for the occupier and plumber in case of neglect to prevent waste, are calculated to promote to a considerable extent economy in the use of water. It might be that the introduction of the water meter would not be made general ; but as the whole matter would be left to the discretion of the executive, the temptation for having a general recourse to it might prove too great for them, if they should find the scheme remunerative. But to charge for water for domestic consumption in excess of regulation supply when the supply is obtained by a heavy compulsory taxation, we hold is on principle unsound and unfair. In respect of the water-supply the Justices resem-

ble a large co-operative society, each member of which contributes towards the object according to a fixed assessment, on the understanding that he will take such a supply as he may require for domestic consumption. If the Justices are empowered to make an additional charge on the pretext of greater consumption by one person than by another, then the principle of compulsory taxation ought, in all fairness, to be abandoned, and the system of taxation according to consumption ought to be substituted instead. Then if a charge is to be made for excess consumption, justice requires that a proportionate reduction should be allowed to those rate-payers who might not consume the regulation quantity. Besides, the rate of one thousand gallons to the rupee is founded on no correct principle. The Justices are not a trading body; and we are of opinion that it would not be consistent with right principle to allow them to charge a fancy price for water for domestic consumption from those whose contributions have secured the supply and who have a common interest in it. The actual cost of the water is less than four annas per one thousand gallons; and we think all charges in excess of that rate, or whatever the cost price may be, would amount to an extraordinary indirect tax, which, as long as the express understanding is that the water-supply is intended for the ordinary domestic consumption of the rate-payers and the public purposes of conservancy and the watering of roads, would be unjust. The Municipality is not and should not be let at liberty to look to gain by sale of water as long as the aforesaid domestic and public purposes for which the water-rate is imposed are not met. As for the unfiltered supply, it cannot be available at all hours, inasmuch as it will not be given at constant pressure—not to say that the two-fold supply would entail upon the house-owner double cost in lying on the water.

Then latrines and water-closets are not to be provided with constant supply of water, but should be provided with cisterns. As a diffuse supply of water is essential to the successful working

of the drainage system, we are not satisfied that cisterns would answer the purpose. To compel the house-owners to connect their privies with the new sewers and to stint them the supply of water would be inconsistent. Besides, privies in native houses, we are informed, are too small for the convenient admission of the cistern; and as such houses have generally several privies, the cost to the owner or occupier for introducing the system of cisterns would be great. Indeed, taking the charges for water—*firstly*, for connection for filtered supply; *secondly*, for unfiltered supply; *thirdly*, for cisterns; and, *fourthly*, for domestic supply in excess of regulation quantity—we are of opinion that the pressure of taxation would fall very heavily upon the poorer classes of tax-payers. It is also open to question whether it is consistent with the functions of the legislature to provide for cisterns when the system has not been discussed or adopted by the Justices.

V.—We object to the provisions made for the passing of the police budget. They are calculated to reduce the Justices to the position of the message-bearer only. As the Bill is framed, the Justices are simply to receive the budget from the Commissioner of Police and to transmit the same to the Lieutenant-Governor. This change in the law is recommended on the ground that the regulation, management and control of the police ought to be vested in the Government. Such is now practically the case. The Commissioner of Police under orders of Government determines the strength and organization of the police; and although the Justices have power to reduce or cancel any part of the police budget, they have never exercised that power to the detriment of the efficiency of the police. The existence of the power has however, a wholesome influence on the Commissioner of Police and conduces to the advantage of the town. If the Justices have never exercised the power in question, they may do so at any time, and this circumstance tends to make him cautious, moderate, and economical. The Justices are responsible to the rate-payers for

the due application of the funds they collect ; and as they are charged with the collection of the police rate, it is both necessary and meet that they should have a voice in the administration of the police fund. It was urged that should the Justices and the Local Government disagree on any point, things would come to a dead-lock. Such a crisis has never arisen, though the power under notice has been vested in the Justices since 1866 ; but should such a crisis arise, the difference might be settled by the Government of India, whose decision should be final, as the control of the police is vested in it in the last degree. The majority of the Committee, did not, however, agree to this proposal. This is a constitutional question of great importance, and we are of opinion that if the legislature is not prepared to continue the power hitherto possessed by the Justices, the corporation should be relieved of the invidious duty of imposing and collecting the police rate, in the disbursement of which it is to be allowed no control. In London, the city police, which is analogous to the metropolitan police of Calcutta, is, we believe completely under the control of the City Corporation. If it be the object of the Government to give the rate-payers the privilege of self-government, it cannot be consistent with that object to deprive the Justices of their present power to control police expenditure.

VI.—While we support the provisions made for the clearance and improvement of bustis, we do not consider it fair to compel the owner of the land to construct privies for the benefit of the occupier. There should be a broad line of distinction between the sanitary requirements of the land owned by the landlord and those of private houses built thereon by tenants. The former obligation belongs to the landlord, and the latter to the tenant ; and the respective duties of the two parties cannot be confounded without entailing injustice on one or the other. The practice in this town is for the tenant to build his own habitation and the appurtenances belonging thereto ; and as tenants, particularly with

families, do not frequent a common latrine, the landlord would be put to considerable cost in building a privy for each tenant. The improvement of the bustis will entail heavy expenses upon the owner, and it cannot be fair to saddle him with this cost. Where common latrines may be needed, the owner may be required to provide them, but not otherwise.

We object to this provision, the more because we are convinced that no cost for improvement will be incurred except with a view to realize a return; and if the tenants be made to pay the interest on the outlay by way of increased rent, the evil will recoil on them in a way which those who wish to benefit them cannot but feel to be grievous. Living for poor people in the town has already become very difficult, and the multiplication of taxes and outlay on improvements cannot but increase that evil. Sanitary improvement, however salutary, is dearly purchased where the means of subsistence are injuriously reduced; and it is the bounden duty of the legislature, in our opinion, to prevent so serious a mischief. The idea that the owners of lands will themselves defray the cost of all improvements from purely sanitary or humane motives is delusive. The effect of such improvements is sure sooner or later to tell against the tenants, who contribute by way of rent the means which the owners are called upon to lay out, and we desire that this truism may not be lost sight of in revising the municipal law. We are constrained to say that it has been overlooked in the matters above set forth, and in several other minor subjects.

As material alterations have been introduced in the Bill, we would recommend that the amended Bill with the Report of the Select Committee and this Dissent be published in the *Calcutta Gazette* for general information.

The 30th June 1875.

THOS. W. BROOKES.
KRISTODAS PAL.

TEXT BOOKS FOR INDIAN SCHOOLS.

A Committee, consisting of the HON'BLE E. C. BAYLEY, COL. R. M. MACDONALD, RAO SHAIB NARAIN BHAI DANDEKAR, R. GRIFFITH ESQ., R. G. OXENHAM, ESQ., DR. G. W. LEITNER, HON'BLE BABOO KRISTODAS PAL, C. H. TAWNEY ESQ., and E. LETHBRIDGE ESQ. was appointed under orders of Government dated 23rd April 1877, to report on text books for Indian schools.

The following note was recorded for the consideration of the Committee, by the Hon'ble Baboo Kristodas Pal, dated Simlah, the 13th. June 1877.

I REGRET that according to the terms of the Resolution constituting this Committee we are precluded from considering the scheme of studies. In my opinion, as I have remarked in a previous Note, the scheme of studies is the basis upon which the superstructure of text-books should be raised. The text-books are but means to an end and unless the Committee come to an understanding as to what ought to be the end of the Indian system of education, the selection of text-books would at best be a random work. In fact, it would be putting the cart before the horse. As far as I understand the views of the Committee we must take the system as it is, and even then we must exclude from the scope of our enquiries and observation the University studies. Our work is thus very limited. It amounts to an examination of books for English and Vernacular schools.

Limited as the scope of our enquiry is, the deliberations of the Committee suggest some very important questions; *Firstly*, whether or no the Indian schools, both English and Vernacular, should be brought under an imperial system, in other words, regulated by a principle of uniformity and subject to a central department of control? *Secondly*, whether or no the books to be taught in those schools should be prepared on an imperial plan, in other words, whether or no there should be an imperial

series of books, from which no schools, either wholly supported or partially aided by the State, should depart? And *Thirdly*, whether the different series of books, now in use in different parts of the country, are adapted for the purpose? If an uniform or imperial system of schools and books be not considered conducive to a healthy development of school education in the different provinces, which it must be admitted are at different stages of progress, on what principles should the policy of decentralization be based, and how far do the existing books in use in the several provinces meet their respective wants?

Before proceeding to consider these questions, I deem it due to glance at the result of the enquires already made on the subject. In 1873 under orders of the Government of India, Provincial Committees were appointed by the several Local Governments to enquire into and report on the school-books, both English and Vernacular, in the different provinces. They have collected a mass of information and recorded valuable opinions on the subject; but, as might be expected, they differ in opinion. They have taken into consideration the state of things in their respective provinces, followed the current of thought and opinion there, and recommended principles of action suited to the stage of progress already arrived at within the area of their own enquiries. I will note the leading points according to provinces.

OUDE.

The Provincial Committee think that the vernacular text-books are for the most part suitable, though certain changes are recommended. "The want of suitable English text-books," the Committee are of opinion, "has been felt in all Educational Departments in all the provinces of India." As the Bombay Educational Department was engaged in the preparation of a suitable series of English text-books, the Committee wish to know what has been done in Bombay in this direction, and if no satisfactory results have been produced, they suggest that "the Art

Syndicate of the Calcutta University be asked to appoint a Committee to decide upon the essential characteristics that should be found in English elementary school text-books, and having so decided to appoint gentlemen to compile a suitable series."

BERAR.

The Provincial Committee report that the Educational Department of Berar is not an independent body, that the standards of study are merely identical with those of Bombay, that certain books should be eliminated from the school curriculum of Berar, that fresh text-books in English, such as history of India, Greece, Rome, and England chronologically arranged, should be prepared, and that useful English works should be translated into Urdu and Sanskrit. The Local Government was of opinion that the suggestions for the compilation of English text-books might "stand over for the present until we can learn if the Educational Departments of the larger provinces recognize and propose to supply the want indicated by these suggestions." With regard to vernacular translations, the Local Government remarked that the object might possibly be attained under the rules for the encouragement of vernacular literature.

PUNJAB.

The recommendations of the Provincial Committee are thus summed up:—

I.—As soon as possible and simultaneously—

Preparation of new English Readers,
Translation of Todhunter's Mensuration,
Adoption of a new Third Urdu Book,
Adoption of expurgated edition of Gulistan
and Bostan,
Revision of the Wagiāt-i-Hind.

II.—Revision of the Miftah-ul-urz.

- III.—Preparation of a new English Grammar,
 Preparation of a new Persian Grammar,
 Writing of new Vernacular History of India.

The Local Government approved most of the above recommendations, but suggested the introduction into the course of instruction in the village and zilla schools "a book of Urdu poetical selections of a moral, didactic, or descriptive character."

BOMBAY.

The Provincial Committee have made an elaborate report upon the school-books in use in the Bombay Presidency. They have given their opinion on the different books in use, and recommended improvement, and also the preparation of new books, both Vernacular and English, according to their ideas. It does not appear that the Local Government has done much to carry out the suggestions of the Committee.

MYSORE.

The Provincial Committee make the following recommendations.—

- I.—The compilation of certain works in English, viz., grammar, arithmetic, histories and geography, which would be of use generally to all India.
- II.—The preparation of expurgated editions of certain works in Sanskrit and Persian, which would also be of general use throughout the Empire.
- III.—The compilation of four reading books, English and Vernacular, a grammar with exercise in the vernacular for translation, a work on school management, a vernacular translation of the same and of the histories and geography to be prepared provincially in view to their adaptation to the locality in which they are to be used.
- IV.—The holding of a conference of representatives of Kanarese school literature from Madras, Mysore and

Bombay, in view to a common understanding being come to regarding Kanarese school-books, and the introduction of a single series in all Government or aided schools throughout all Kanarese Districts.

The Chief Commissioner recommends that the works under the first two heads should be carried out under the orders of the Government of India as an imperial undertaking, and the rest locally.

BENGAL.

The Provincial Committee are unanimously of opinion that the English text-books in the Bengal schools are not "altogether accordant with what appears to be a sound principle of elementary instruction, namely, that the contents of the books taught shall be as much as possible within easy range of the pupil's comprehension and ordinary experience." Many of these books are sometimes unintentionally offensive to their national and religious prejudices. Some of them again are behind the age. The Committee have given a list of books approved by them. The Lieutenant-Governor generally accepts the views expressed by the Committee. His Honour concurs with the Director of Public Instruction that money rewards need not be offered to secure the improved books required. His Honour says, "it may be confidently expected that authors will soon meet the demand if they are made acquainted with the subjects on which the Government wishes for fresh books of an improved character." As regards the vernacular books, while the Committee point out deficiencies in certain branches, they are averse to any change in the system, which has obtained from the last twenty years. The Local Government concurs in this opinion. A list of approved books is published.

MADRAS.

The Provincial Committee, after carefully and minutely going into the merits of the books, English and Vernacular, now in use,

and also of those offered for their examination, recommend the preparation of some fresh books and the revision of some old ones. The Madras Government has already appointed certain gentlemen to prepare English Readers and Grammars, and also Readers in Tamil, Grammar in Tamil and Telugu, and Arithmetic in Tamil.

CENTRAL PROVINCES.

The Provincial Committee recommend a local series of vernacular books, both Mahrathi and Hindi, but the Chief Commissioner would obtain Mahrathi books from Bombay, Hindi books from the North-Western Provinces, and Urya books from Bengal. The Chief Commissioner does not touch upon English text-books.

BRITISH BURMAH.

The Provincial Committee are of opinion that the Burmese classical literature is comparatively free from impure and indecent expressions ; that the English spelling books, prose readers, poetry, grammar and others in general use are not on the whole suitable ; that the histories are not altogether what are required, and the Committee would wish to see a History of India with fuller particulars regarding Burmah than those at present in use contain ; that the arithmetics deal solely with English money, weights and measures which can be of but little service in that province ; that two out of three Burmese text-books in use are not so good as some other classical Burmese works ; and they make certain recommendations for the preparation of new books and the improvement of the existing ones.

Steps have been taken by the Local Government to prepare a complete series of school-books in a diglot form or in Anglo-Burmese, the object of which is "to teach English side by side with the vernacular." A Special Committee has been appointed to superintend the publication of books selected from the Burmese Native literature ; a treatise in Burmese on the History of

Burma has been written; the publication of a course of vernacular school-books called Zats and six Pali texts has been determined upon.

IMPERIAL OR LOCAL SERIES.

It will be seen from the above summary that the tendency of opinion among the Provincial Committees is more in favour of local than imperial series; that in some of the provinces measures have already been taken to produce local series; that as regards English Readers, History, Geography, Grammar, and Arithmetic the present books do not adequately meet existing wants; that the majority of the Local Governments would appoint, some have already appointed, particular individuals, whom they consider specially qualified to prepare new books; that the Government of Bengal alone advocates free trade in the publication of school-books.

For my part I am opposed to a dead-level policy of uniformity. As in finance and taxation, so in matters of education, there are peculiarities in the condition of the different provinces, stages in the progress attained by each, differences in the temperament, intellectual capacity and aspirations of the people of each, which forbid the application of a hard-and-fast rule to all. In some provinces English is taught less than in the other provinces, and it is therefore necessary to adapt each local series to the circumstances of each province. Those who aspire to a University career ought to be better grounded in English than those who learn English as a language. Already there is a complaint that the University system while it fosters liberal culture, has a tendency to check the growth and development of individual colleges, by bringing the labours of all of them to one unvarying test. An imperial series of school-books would aggravate the evil. It pre-supposes that all schools throughout the Empire must be arranged on an uniform plan and model; otherwise there would be no room for that comparison and correction of mutual defects, which, as I conceive, is the only advantage that would be attained under an imperial

system. For instance, in the Punjab the greatest stress is laid upon oriental education ; the object there, if I mistake not, seems to be to produce a body of oriental scholars learned in the oriental classics with or without English education. Again, in British Burmah English education is in its infancy ; the aim there is to fit the system of public instruction into the education imparted at the monasteries. In the North-Western Provinces, Oudh, and the Central Provinces English education is practically held to be a matter of secondary importance. But in Bengal and Bombay English education has made a rapid advance, and the greatest importance it attached to it. I do not wish to re-open the controversy between English and oriental education ; so far as the older and more advanced provinces of the Empire are concerned, the question has been decided in favour of English. But I think there is now no room for difference of opinion on the subject. The great Education Charter of 1854 has emphatically and definitively laid down the principles on which education in India should be conducted. It declares that the masses should be educated in their mother tongue ; that the middle or upper classes should be taught in both English and Vernacular ; that those among them who aspire to University honours should be afforded the opportunities of studying the higher branches of Western literature and science and oriental classics, and that thus Western thought should be brought to bear upon the discipline and development of Eastern ideas. This system, which has made the greatest progress in Bengal and Bombay, has already produced a body of scholars, distinguished for their attainments in the English language and for their thorough acquaintance with their vernaculars, and their influence on vernacular literature has been most active and salutary. Bengali literature thirty years ago was scarcely worthy of the name, and yet within the last few years it has made a progress unparalleled I may say in the history of vernacular literature in any other province. The range of subjects over which it now traverses, and the number of books produced in each, reflect

the highest credit upon the system of education pursued in Bengal. I give the following statement from the report of the Bengal Book Committee in support of my position :—

Subject	Number of volumes under each head.	Subject	Number of volumes under each head.
<i>I.—Readers.</i>		<i>VIII.—Physical Science.</i>	
(a).—Primers	... 63	(a).—Physics	... 22
(b).—Readers	... 144	(b).—Astronomy	... 13
(c).—Tales of Ancient India	129	(c).—Chemistry	... 7
(d).—Other Tales	... 64	(d).—Natural History	... 10
(e).—Poetry	... 164	(e).—Botany	... 2
<i>II.—Lexicology.</i>		(f).—Agriculture	... 8
(a).—Dictionaries and vo-		<i>IX.—Medical Science.</i>	
cabularies	... 24	(a).—Anatomy and Phy-	
(b).—Keys	... 66	siology	... 10
<i>III.—Language.</i>		(b).—Surgery	... 2
(a).—Grammar	... 77	(c).—Practice of Medicine—	
(b).—Composition	... 9	European	... 37
(c).—Rhetoric	... 5	(d).—Materia Medica	... 2
<i>IV.—Geography.</i>		(e).—Midwifery	... 9
(a).—General	... 43	(f).—Medicine—Native...	29
(b).—Physical	... 8	<i>X.—Law.</i>	
(c).—Atlases and Maps	... 15	(a).—Criminal	... 22
<i>V.—History.</i>		(b).—Civil	... 60
(a).—General	... 12	(c).—Revenue	... 9
(b).—Particular—Bengal		<i>XI.—Social Science.</i>	
and India	... 46	(a).—Poetical Economy	... 7
Do.—Other countries	17	(b).—Popular Hygiene	... 11
(c).—Biography	... 47	<i>XII.—Arts.</i>	
<i>VI.—Mental and Moral Science.</i>		(a).—Fine Arts	... 3
(a).—Metaphysics	... 6	(b).—Needle-work	... 3
(b).—Philosophy	... 17	(c).—Music	... 19
(c).—Ethics	... 19	(d).—Gymnastic	... 3
<i>VII.—Mathematical Science.</i>		<i>XIII.—Education.</i>	
(a).—Arithmetic	... 47	(a).—Lessons on Objects...	5
(b).—Mental Arithmetic...	14	(b).—Art of Teaching	... 6
(c).—Accounts	... 13	<i>XIV.—Miscellaneous.</i>	
(d).—Algebra	... 5	(a).—Chess	... 2
(e).—Geometry	... 13	(b).—Miscellaneous	... 74
(f).—Mensuration and		(c).—Magazine and Periodi-	
Surveying	... 13	cals	... 35
(g).—Trigonometry	... 1		

There have been also numerous additions since the report of the Committee. And these highly satisfactory results have been obtained without any pressure or artificial stimulus from Government. They are the legitimate products of free trade in literature.

I need not advert to other advantages, social, administrative and political, which have accrued from the system of Anglo-Vernacular education. It is observable that in those provinces, where English education is held as a matter of secondary importance, not one-twentieth of the bulk and variety of Bengali literature has been achieved, though there the artificial encouragement of money rewards or prizes by Government largely prevails. I doubt, however, whether the important results obtained in Bengal would have been accomplished, if the patriarchal system of treating the people as a pack of children, now preventing them from taking this or that intellectual pabulum, now patting them on the back and giving them money rewards for intellectual exercises or games in the shape of school-books, now nursing them on intellectual sago and arrowroot, and now giving them some seasoned intellectual meat to eat. If Bengal had not been treated liberally from the dawn of her intellectual revival, if she had not been allowed the utmost latitude in the intellectual race, if she had been subjected to a hard and rigorous system of imperialism, which tends to repress individual thought, aspiration and expansion, I am afraid that she would have dragged the length of her existence at the same slow pace as the backward provinces. Our experience in Bengaland Bombay, and also on a rather smaller scale in Madras, I think, ought to satisfy us that a policy of centralization in school-books is not suited to healthy progress and development.

PRINCIPLES ON WHICH BOOKS SHOULD BE PREPARED.

Of course some general principles may safely be laid down for the preparation of text-books. The primary object of English education in this country ought to be steadily kept in view in these undertakings. In the first place, it should be borne in mind

that English is taught to Indian youths with a view to open to them the store-house of Western literature and science, but as the language is foreign to them they ought to be led step by step to the temple of knowledge. The primers and readers ought to be so designed that the Indian learner may easily understand the structure of the English language, its characteristics and idiom. He should be first familiarized with easy sentences referring to familiar objects which he sees around, or to every-day occurrences in domestic life, which he may be said to see and learn from his mother's lap. Then he should be conducted gradually from the district or province to which he is born to a view of the other provinces of this vast Empire by being acquainted with the animals, products, scenery, manners, customs, tales and stories relating to them. And this is one reason why I attach importance to local series. And after he has acquired a sufficient knowledge of his country, he should be made to extend his vision, and to understand the scenery, tales, anecdotes, allusions, life, manners, customs, institutions and history connected with European countries, particularly England. I am of opinion that as soon as an Indian student has acquired a fair knowledge of the English language so as to be able to understand without aid English words and phrases, and to acquire a sufficient stock of general ideas, he should be made acquainted with English scenes and allusions, otherwise English literature will remain a sealed book to him. In the same way history and geography ought to be taught to him : *firstly*, the history and geography of his own province ; *secondly*, of the Indian continent ; *thirdly*, of Europe or the world. And here I would remark that a general knowledge of ancient and modern history is essential to a good school education. I would also place in the hands of the student outlines of the Histories of Greece, Rome and England as separate books. Then I would include translations of Homer's and Virgil's poems in the curriculum of the higher classes in the zilla school : some of the existing translations are simple and easy enough, and through them the

student will be able to form some idea of the beauties of those immortal poems ; he will, I think, study them with some zest as he will find in the mythology and legends of his own country the counterparts of the gods and goddesses of Grecian and Roman mythology. Besides, I hold that no student of English literature can follow it successfully who has not acquired a knowledge of Grecian and Roman history and mythology. If it be urged that but only small portions of the poems referred to could be finished in the school, and that their study would therefore be incomplete, I would suggest that selections may be published, giving, if practicable, detached pieces or episodes complete in themselves. As for grammar, the simpler the better, but as to the choice of particular texts the school authorities ought to be left free. The arithmetic ought to contain the weights and measures of particular provinces, and I would add a Bengali portion for Bengal, and other local portions for other provinces, containing rules and directions for zemindari and other revenue accounts, and bazar accounts. In this respect our pupils are very deficient. The English educated youth of the present day, I speak of Bengal, I own with sorrow, knows nothing of zemindari or bazar accounts, and is quite at sea upon the subject. It is very necessary that this deficiency should be supplied. Then book-keeping and business letter-writing ought to be taught in the schools. Books on this subject may be prepared. I may note that many of our students are now-a-days deficient in spelling, and although this defect may be remedied by constant exercises in dictation, I would recommend Spelling-book No. II of the Calcutta School-book Society, which has been practically found to be highly useful in some of the Bengal schools, notwithstanding the prejudice against it which seems to exist in certain quarters. English composition and translation now form a part of the course of school instruction, but I do not think fresh text-books are required on the subject. The guides or manuals of English composition already in ~~exist-~~ence are quite sufficient for the purpose. While I advocate free-

dom in the production of school-books, I am satisfied that it will lead to a healthy competition among the different provinces. Each will strive to do its best, and by comparing notes with each other, the provinces will be able to correct each other's defects, while there will be a generous spirit of emulation for excellence. As we find under the present system of local finance, although I humbly think full justice has not been done to the provinces in the financial department, each Provincial Government seems to be grateful for the freedom accorded to it, zealous in the husbandment of its own resources to the best advantage of its own province, and anxious to show the best possible results from the administration of its own Funds, so under a federal system of education, the provinces will, I feel confident, take a pride in their educational independence, and imbibe a healthy and generous spirit of rivalry. If India more resembles a heterogeneous continent than a homogeneous country, if it is inhabited by people speaking different languages and possessing different traditions, customs and manners, their intellectual wants necessarily differ, and they must be met on a differential scale. As I have pointed out above in noting the principles on which school-books should be prepared, attention must be paid to local peculiarities, traditions and requirements, and that object cannot be accomplished under an unbending imperial system. In fact what is wanted is not imperialization but federalization.

VERNACULAR BOOKS.

The vernacular books must belong to local series ; sometimes one vernacular book may be translated into another vernacular, and *vice versa* ; again one vernacular book may be modelled upon another ; in this way there may be mutual co-operation between the different provinces, but each province must have its own series ; where the people of two or more provinces or particular portions of them may speak and write the same language, the ~~same~~ series may answer, and in such cases the educational authorities of the different provinces may advantageously act in concert ;

otherwise each province ought to be left to pursue its own series. The vernacular series ought to be so arranged as to enable the more vernacular student to acquire a fair general education without the aid of English. I doubt whether in the present state of the vernaculars, the Bengali language not excepted, though the greatest progress has been made in that language, a sufficiently high education can be imparted in the sciences and arts, still the standard of education in the vernacular should be made as high as practicable, and text-books ought to be adapted to this end. The three R's should as a matter of course be taught in the vernacular schools of all grades, but scientific facts should also be taught in a popular form. The science primers should be so designed as to obviate the necessity of practical illustrations with instruments or apparatus. In the first place the village school-masters cannot be expected to handle instruments, and in the second place the village schools are too poor to provide a laboratory. But I think scientific facts may be made comprehensible to vernacular students, if conveyed in a simple and popular language, with homely and entertaining examples, calculated to make an impression upon the young mind. The study of the ordinary phenomena of nature is always interesting, and once an interest is created in the mind of the student, he is sure to take to it *con amore*. In no other subject does an Indian student show greater ignorance than in this, and his deficiency is entirely due to want of proper books and teachers. Further, a knowledge of zemindari or revenue and bazar accounts, proper hand-writing, reading of manuscripts, and the composition of court proceedings and business letters ought to be insisted upon in the vernacular schools. In this the Gurumashye system was superior to the present system of vernacular education. The host of court and zemindari amla in Bengal were trained by the Gurumashye, and under the superintendence of superiors, both European and Native, they have carried on, I may say, the most important business of district administration; they might be deficient in general knowledge or unacquainted with the

principles or ethics of political science or of the laws governing the country, but for hard practical common sense and business aptitude they have not been surpassed. Manuals for this business education ought to be prepared, or, where they exist, they ought to be introduced in the schools.

WORKS FOR TECHNICAL EDUCATION.

The time has come, I submit, when due attention should be paid to technical education. This is a branch of instruction, as I have remarked in a previous Note, which has been utterly neglected in this country. Its importance cannot be overrated, particularly when we see thousands and thousands of educated natives pine away in penury for want of useful and remunerative occupation. If Government wishes to give education in India a practical turn, it ought to train up the students in the technical arts. These arts may be taught in both the Vernacular and English. The vernacular student, who will learn scientific facts according to the plan I recommend, will be on the road as it were to instruction in technical arts. The Natives of India have always distinguished themselves for excellence in several arts ; even at the present day they are unrivalled in some of them ; but new tastes, new ideas, and new wants have sprung up under European civilization, and indigenous arts and industries have fallen into decay. Some of them have almost died out. The schools ought to be adapted to new circumstances. It is indeed shameful that the Indians should be dependent upon foreign countries for a box of matches or a bundle of pins. He has the raw material in his country in abundance, but he has not the knowledge to utilize it. Independent European enterprise is familiarizing the Indian mind with some of the European arts, but there are practically no schools for training in technical arts. If the Local Governments could be induced to establish schools for technical education, ~~books~~ would be forthcoming. There are already some books in Bengali on this subject, and others I dare say will be produced

if due encouragement be held out. For details on this subject I invite the attention of the Committee to a paper on education in arts written by Babu Pratapa Chandra Ghosha of Calcutta.

BOOKS FOR AGRICULTURAL EDUCATION.

In a country, the people of which chiefly depend upon agriculture, instruction in the art of cultivation ought to form a part of the school curriculum. It is true that agricultural education cannot be satisfactorily imparted without the aid of model farms, and that such farms cannot be established without great expense. The Local Governments might be induced to establish such farms in certain centres, as the Madras Government has already done, but much may be taught through the medium of manuals. In a certain sense it is true that the Indian ryot has not much to learn in the art of cultivation, that he knows the rules of husbandry by rote, that he can predict the seasons by certain signs, and that he can discern the quality of the soil and adapt the cultivation to it by experience. But still he has to learn much; he may derive much profit by the rotation of crops, by the introduction of new staples, by the improvement of manure and his agricultural implements, and in the breeding of cattle. There are agricultural maxims in Bengali known as *Khonar bachan* which may be fitly embodied in an agricultural manual; then the rules of agricultural chemistry may be given in a popular form; and directions for the cultivation and manufacture of valuable articles may, I think, be advantageously summarized in the form of dialogues on the model of Joyce's Scientific Dialogues. There is an impression in certain quarters that the Indian ryot is too conservative and averse to learn new ideas or to cultivate new crops, but this is not the fact. There are numerous instances of Indian ryots cultivating new articles of produce. Potato may be mentioned as one. Many European and American vegetables have been brought into cultivation in India. Tea is another instance. The natives did not understand this cultivation before.

but they are now going in for it. Some joint Stock Companies have been lately formed by native gentlemen in Bengal for the cultivation of tea in Chittagong and Assam.

WORKS ON MUSIC.

Hitherto the cultivation of music was considered by respectable natives as degrading. The musicians form themselves a class apart, and are mercenary. Although it would be a libel to say that the natives of India are dead to the charms of music—indeed I believe that they do not yield to any nation in the world in the love of music—the highest in rank have spent fortunes upon the acquisition of this divine art, but music I must confess has not formed a part of the ordinary education of the Indian student. Of late years there has been a revival of Hindu music in Bengal. Thanks to the liberality and exertions of Dr. Sowrendra Mohun Tagore, several Music Schools have been established, and several books of notation and treatises published. Hitherto the notations of Hindu music were not in print, but this difficulty has been overcome. Music may now be taught as a branch of instruction. It may be worthy of the consideration of the Local Governments whether music classes may not be opened in connection with our schools. I have said that text-books are not now wanting, but if easy primers are still required, I am confident they will be supplied by Dr. Showrendra Mohun Tagore.

WORKS FOR FEMALE EDUCATION.

The library for the Indian female is still limited. In Bengal it is steadily increasing, as also I believe in Bombay, but of the other provinces I do not think the same can be affirmed. In Bengal Ladies' Magazines are maintained; some of them written by ladies. But I think the school literature for native ladies is not sufficiently comprehensive. Attention may be fitly directed to this subject.

LAW AND SCIENCE BOOKS.

~~This~~ This subject forms the third head of enquiry for this Committee under the Resolution of Government. It runs as follows:—

"To carry the enquiry further, with a view to the production of vernacular text-books in a form thoroughly comprehensive to the native mind on such subjects as law, jurisprudence, the principles of evidence, and other similar departments of an educational course adapted for the training of aspirants to official employment or public life under Government."

The Committee have recorded an opinion to the effect that "the sense of the Resolution is that we should suggest means for preparing in the vernacular languages, *wherever required*, popular summaries of the best thought produced hitherto on such subjects as jurisprudence, the science of politics, sanitation, agriculture, &c.

The words which I have italicised above show that in the opinion of the Committee this Resolution is not applicable to all places. In Bengal, for instance, artificial encouragement is not necessary for the production of such works. It will be seen from the list of Bengali books which I have given above that most of the subjects referred to have already been touched upon, and that so far as Bengal is concerned demand is sure to create a supply. But I do not quite understand how the production of such works comes within the scope of school literature. In the first place I am not aware that there are law classes in any of the provinces except perhaps the Punjab, and therefore law books are not needed for law schools. It is true that there are law examinations in the vernacular, mooktearship and the lower grade pleadership examinations in Bengal, and similar pleadership examinations in the other provinces, but the candidates are examined in Indian laws, and not in general principles or jurisprudence. As for the science of politics, sanitation, and agriculture, a general student may like to read some works on those subjects, but the sale of such books cannot be remunerative. The case may be somewhat different in Bengal, as there a Bengali-reading public is springing up, but even there I do not believe the publication of works of this kind pays very well. As for training aspirants to public employment or public life by means of these works, I

have not much faith in such training, at any rate so far as Bengal, and perhaps Bombay and Madras, are concerned. In those provinces the "aspirant to public employment" or "public life" generally looks to English education for qualification ; indeed nearly all the higher offices there are filled by men educated in English, and this is an advantage whether considered from an administrative or political point of view. I am strongly of opinion that a native of India cannot thoroughly enter into the spirit of the British constitution, of the British laws, or of the British Indian system of administration, who has not imbued his mind with English ideas and sentiments drawn from the fountain-source. The present native judiciao of Bengal is admitted on all hands to be a vastly superior body, in head in some respects superior even to covenanted Judges ; but could they have acquired this superiority, if they had not had received a liberal English education ? The same may be said of other classes of native officials, who have distinguished themselves by their intelligence, ability and high character. English education, I humbly think, ought to be made a *sine qua non* for the employment of natives in the higher ranks of the public service ; otherwise they will always be at a disadvantage ; not only will the efficiency of administration suffer, but the *amour propre* of the men employed may be affected. They will always feel a sense of inequality and inferiority to their European brethren in the service by reason of their ignorance of the English language. Besides, it is a great privilege for a native to be able to address the rulers of the country in their own language, for he does not then labour under the disadvantage of seeing his thoughts, opinions and feelings mutilated through the medium of translation or interpretation. Besides, English education has a tendency to enlarge the mind and broaden the sympathies of the Indian, who receives it, and whether he is employed under the State or pursues public life, ~~large~~ views and broad sympathies are of the highest importance. As for persons in subordinate employ, I do not see how books on

jurisprudence, or science of politics, sanitation or agriculture, can be of much use to them. Science primers or manuals on technical arts may be useful, and the preparation of such works I have recommended above.

At the same time I admit that there are provinces where English education has not made sufficient progress, and that there are populations which are averse to learn English, which consider it a point of honour or religious feeling not to touch an English book. The Government owes a duty to them, in common with other classes of the community, and because they will not avail of themselves of the means and appliances of English civilization, or hold converse with English thought through the medium of the English language, our Government ought not to neglect them. A step taken to break down the barrier of their exclusivism, to elevate their thoughts, to extend the range of their ideas, to instil into them the principles of good citizenship, and to enable them to take an active and honourable share in the work of administration, would be decidedly a step in the right direction. For that purpose I think the Committee should recommend to the Government of India the creation of a high order of vernacular literature, wherever required, embracing such subjects as law, jurisprudence, the science of politics, sanitation, scientific agriculture and the like. This object may be effected by the offer of prizes or by the employment of approved and tried authors. If simultaneously with the production of these works lectureships could be established experimentally free of charge in the chief towns of the provinces, requiring this special arrangement, much good might be done in creating and fostering a taste for study of this kind.

SCIENTIFIC TECHNOLOGY.

This subject is of great importance, and is discussed in the report on vernacular medical books for Bengal. I agree with Dr. Rajendralala Mitra, a member of the Bengal committee, who is of opinion that "owing to the peculiarities of the different

vernaculars current in India, it is impossible to preserve uniformity by transliteration; that the English terms already introduced, whether in the ordinary affairs of life or in scientific books, have assumed very different appearances in the different vernaculars, that the Native Doctors in the armies of the several Presidencies use different terms, or English terms so transmogrified as to amount practically to different terms, and that such terms, are quite unintelligible to the mass of the people; that owing to the defects of the Urdu alphabet they cannot be transliterated with any approach to accuracy; that as long as the languages differed, there was no prospect whatever of a universal scientific terminology getting into currency, and that the proposed medical works being compiled according to fixed rules, and under the superintendence of specially appointed committees, there could be no apprehension of want of uniformity by Sanskrit scholars drawing largely from the Sanskrit and Arabic Doctors resorting to the Arabic language."

Babu Rajendralala Mitra divides scientific terms into six classes, for four of which he advocates "translation." For the remaining two he recommends "transliteration." His six classes are—

A.—TERMS TO BE TRANSLATED:

Class I.—Terms that belong both to science and to the common language as blood, saliva, sulphur, leaf, headache, fever.

Class II.—Terms that are used by traders and professional men, as yeast angle, crystal, petal, tonesmus, strata, depression. Cases may arise in which such terms will have to be transliterated.

Class V.—Functions and abstract ideas, as secretion, absorption, germination, tonic, affinity.

Class VI.—Chemical and anatomical compounds.

B.—TERMS TO BE TAKEN FROM THE ENGLISH AND TO BE "TRANSLITERATED."

Class III.—Names of things used in modern science, as

ipecacuanha, jalap, the elements of chemistry, the names of rocks and the names of surgical instruments.

Class IV.—The scientific names of plants and animals.

The language of science ought to be common in all countries, and this I observe is becoming the tendency in the great countries of Europe; transliteration, and not translation, is becoming the practice. Indeed, an Indian is more likely to understand what oxygen and hydrogen are when he knows the principles of their composition, than when he hears the same substances called by different names, as unfortunately few vernacular writers agree with each other in the translation of scientific nomenclature. If ordinary English words expressive of the names of domestic articles and like objects have become a part of at least the spoken vernacular, and are easily understood by the ignorant peasant and the zenana lady, I have not the remotest doubt that the transliteration of scientific terms would pass as current coin without the least difficulty. On this point the Government alone can influence the authors or translators with any effect. If it declares that it will not admit those books into the school or college curriculum which do not follow the transliteration method in the use of scientific names, the present confounding practice would give way in no time. Now there is nothing but chaos and confusion. The present is the best opportunity for introducing an uniform system on the subject.

TEACHERS AND TEACHING.

But it will not be enough to improve the character of school-books. It is of the utmost importance to improve the calibre of the teacher and the quality of teaching. As the Director of Public Instruction in Bengal remarks, "to improve the quality of our teachers is unquestionably of even greater importance at the present time than to improve the quality of the books they have to teach." "The tendency of some of the measures of recent years," he continues, "has unfortunately been to lower the standard of our staff of masters, and this is certainly a very great calamity."

If the child is father of the man, the person who teaches the young idea to shoot performs no ordinary function, and it is of the utmost importance that he should be a properly qualified person, but the small pittance which is doled out to the native teachers are by no means attractive to men of real education and talents. It is observable that while Government has done much to improve the position and prospects of the upper branch of the tutorial staff, it has done nothing in the same direction for the benefit of the lower branch of the service, which is almost exclusively represented by natives. I was no less surprised than shocked to hear the other day that that profound mathematician and astronomer Professor Bapudera Shāstri of the Benares College was hitherto in the receipt of the paltry sum of Rs. 70 per month, and has been latterly drawing by no means a handsome salary of Rs. 150. So long as the position and prospects of the teachers are not raised, it would be hopeless to expect an improvement in the quality of teaching, and without such improvement all labour in the production of good school-books would be practically thrown away.

FREE TRADE IN BOOKS.

I hope no monopoly will be given either to Government or to Government officers, or to private individuals in books. The attempt to produce State text-books has proved more or less a failure, and led to much loss of revenue; the attempt to subsidise Government officers in the preparation of books, or to help such books with the *imprimatur* of authority, would provoke grave scandal; the attempt to favour particular individuals irrespective of the merits of their works has opened the school authorities to the charge of jobbery. I think that in this matter the Education Department ought to be above-board: fair field and no favour ought to be its motto. I would not certainly exclude educational officers from this field of literary enterprise; possibly by their peculiar associations, experience and habit they are the best qualified to write school-books, and it would not only be doing them grievous injustice but positive harm to the cause of school literature to place

them under any disability for this work. But they in common with other authors and compilers should be left to the wholesome rule of competition. If the wares they may bring to the market be good and substantial, they will at once command custom. Nor do I think that pecuniary rewards should be given for the production of school-books, at least not in Bengal, save under peculiar and exceptional circumstances as the late Mr. Atkinson, Director of Public Instruction, Bengal, after an experience of more than twelve years, remarked, "it is not necessary that money payment should be offered to secure the improved books required. A good school-book is a valuable property, which brings considerable remuneration to the author, and a bad or indifferent book can of course have no claim to be bolstered up by a grant of public money."

STANDING PROVINCIAL COMMITTEES.

In order to work up the different points which I have touched upon in this Note into an harmonious whole, as the last head of instructions of Government to the Committee requires, I would recommend, that Standing Book Committees be appointed in the different provinces, consisting of competent European and Native gentlemen, that it be their function to furnish to the Local Governments periodically an approved list of school-books, both English and Vernacular, to publish the same with the sanction of Government, to bring to the notice of Government deficiencies of existing books for any particular branch of study, to consider and recommend the principles on which new books should be prepared, to examine and approve them when ready, to urge upon the executive authorities the elimination of books disallowed by Government, and to watch generally vernacular literature, particularly the translation of scientific works and words, and that each Standing Committee should be invited to make an annual report to the Local Government for transmission to the Government of India, and also consider the reports of the other Standing Committees, and co-operate with each other.

The following memorandum was recorded for the consideration of the Committee appointed under orders of the Government dated 23rd April 1877, to report on text-books for Indian schools, by the Hon'ble Baboo Kristodas Pal, dated Calcutta, the 20th September, 1877.

I have signed the general report, but consider it necessary to make a few observations on some of the points raised in it.

I think the Committee are somewhat inconsistent in ruling that "the Resolution of Government by which we were convened did not empower us to review the scheme of studies prescribed by those bodies" (Universities), and declaring in the same breath "we are convinced that it is essential to the proper preparation of school books that they should be based upon some uniform classification of studies throughout India." On joining the Committee I considered it my duty to submit a Note in which I urged—"The scheme of studies is the basis upon which the superstructure of text-books should be raised. The text-books are but means to an end, and unless the Committee come to an understanding as to what ought to be the end of the Indian system of education, the selection of text-books would at best be a random work." I added that to consider text-books without reference to the scheme of studies "would be putting the cart before the horse." I am well aware that the Universities are independent bodies with which this Committee could not interfere. But the Committee have no executive functions; our duty is to make suggestions to the Government of India, which would deal with them just as if might like; but I am still of opinion that the Committee's labours are practically thrown away by excluding the scheme of studies from the scope of their enquiries and deliberations. If the Resolution of Government constituting the Committee "did not empower them to review the scheme of studies," they might have drawn the attention of Government to this important omission, but the majority decided otherwise. They have to my mind

gone beyond the Resolution of Government by recommending a classification of studies for Anglo-Vernacular schools, but when they have done so, I wish they had taken into consideration the important question of giving a practical turn to the instruction given in the school. I raised this question in my Note dated the 13th June last, but as I was not present at the last two sittings of the Committee, I do not know whether it was considered by them. The report, however, contains no allusion to this subject. I beg to invite attention to the remarks I have made on this point in my Note.

The time has come, I submit, when due attention should be paid to technical education. This is a branch of instruction, as I have remarked in a previous Note, which has been utterly neglected in this country. Its importance cannot be overrated, particularly when we see thousands and thousands of educated natives pine away in penury for want of useful and remunerative occupation. If Government wishes to give education in India a practical turn, it ought to train up the students in the technical arts. These arts may be taught in both the Vernacular and English schools. The vernacular student, who will learn scientific facts according to the plan I recommend, will be on the road as it were to instruction in technical arts. The natives of India have always distinguished themselves for excellence in several arts; even at the present day they are unrivalled in some of them; but new tastes, new ideas, and new wants have sprung up under European civilization, and indigenous arts and industries have fallen into decay, some of them have almost died out. The schools ought to be adapted to new circumstances. It is indeed shameful that the Indians should be dependent upon foreign countries for a box of matches or a bundle of pins. He has the raw material in his country in abundance, but he has not the knowledge to utilize it. Independent European enterprise is familiarizing the Indian mind with some of the European arts, but there are practically no schools for training in technical arts.

If the Local Governments could be induced to establish schools for technical education, books would be forthcoming. There are already some books in Bengali on this subject, and others, I dare say, will be produced if due encouragement be held out.

Para. 9. A classification of schools is certainly desirable, but I don't think the distinctions proposed will meet the circumstances of all the Provinces. For instances in Bengal secondary instruction comprises the vernacular scholarship course, minor scholarship course, which includes some knowledge of English, Anglo-Vernacular course, below the Entrance standard, and ditto ditto up to the Entrance standard. To meet existing circumstances I would sub-divide secondary schools in the following manner, namely, lower and higher vernacular schools, and lower and higher Anglo-Vernacular schools.

I do not think it would be expedient to lay down a hard-and-fast rule to the effect "that no pupil should be allowed to enter upon the secondary stage of instruction without passing an examination in the subjects included in primary instruction." Such a rule would impose an unnecessary barrier upon English education. As a matter of fact, I believe no boy is put in an English class, at least in Bengal, without some knowledge of his mother tongue. I do not quite see the necessity of insisting upon his going through the primary course prescribed in the report of the Committee. It includes "reading and writing the mother tongue grammatically, simple arithmetic (not excluding the local and professional modes of calculation), the elements of geography (with special reference to the pupils' own districts), and a knowledge of the most ordinary phenomena." This course would require at least four years' study; in the case of dull boys it will extend to five years, and as education in the mofussil generally begins at six years, no boy under the proposed rule would be able to take up English before his 10th year, and six years after that will not, I am afraid, be adequate for him to acquire a sufficient knowledge of English so as to pass the Entrance examination in his 16th year.

The curriculum of the Hindu School requires a course of nine years' study, and after that nearly fifty per cent. of the pupils fail to pass the Entrance test. It would not be unreasonable to suppose that with a period of six or seven years for preparation the rate of failures would considerably increase. It might be said that if the time for Entrance be assumed to be the 20th year, the difficulty could be easily overcome; but a boy must read for four years before he can pass the B.A. examination, and then for three or five years more for a professional education in law or medicine, making the total from 25 to 28 years. But for so prolonged a period of study no boy can find time. The struggle for existence must in this country begin early, and our scheme of study should be made to suit that difficulty and not to aggravate it. Bearing this in mind, I am of opinion that it is not at all desirable that such wholesale exclusion of the youths of this country from an opportunity of studying English to a high standard, as must result from the course proposed, should be encouraged. The gain in vernacular education will by no means be worth the sacrifice, nor is it at all needed. Besides, boys destined for English education must learn "arithmetic," "geography" and "natural phenomena in English"; it would therefore be positively a waste of time to require them to learn the same thing twice over, firstly, in the primary course and, secondly, in the secondary course. I think it would be quite sufficient if it were understood that no boy should begin the English course without being able to read the vernacular. It may be left to the school authorities to make necessary arrangements for teaching the vernacular to a boy who comes without any knowledge of it. This is now practically done. If a Hindustani lad, for instance, joins the Hindu School in Calcutta, he is made to learn the Bengali primer first before he begins the English alphabet, or to devote the greater portion of his time to the vernacular while slowly learning the English language. The importance of learning his vernacular well for an Indian student cannot be exaggerated, and in the low-

er classes of the Anglo-Vernacular schools prominence is given to the vernacular study. But an absolute rule like the one proposed by the Committee would retard the course of English education. I am of opinion that the less restrictions are imposed upon the acquisition of knowledge the better. My own impression is that however necessary the matriculation rule, it has had the effect of shutting out a large number of students from high education, and thus filling the country with half educated men. To lay down a similar rule for the secondary schools would be to put a heavy drag upon the cause of education in the country.

PARA. 12.—The Committee recommended the preparation of a list of suitable books “divided into two classes—the first class comprising those books that may be used in Government and aided schools, the second comprising those books that may be used in aided schools only.” I do not see why this invidious distinction should be made between Government schools and aided schools. Surely the books that are considered suitable for Government schools ought to be suitable for aided schools.

PARA. 13.—With regard to the constitution of the provincial Text-book Committees, I am of opinion that the independent elements ought to be made to preponderate. The Committee remark—“We think that the Director of Public Instruction should be *ex-officio* a member of both Committees, and Principals and Head Masters should certainly be put upon the English Committee. Inspectors of Schools would probably be useful in both.

A Committee so constituted, unless largely balanced by the addition of independent members, will not, in my opinion, command public confidence. Really able men, in the face of a standing majority of educational officers can hardly be expected to take an active interest in the work of such Committees, and the result will probably be that incompetent men will have to be nominated to serve only as buffers. Rather than have such shams, I would prefer to leave the task of selecting text-books to the Director of Public Instruction, who, if made solely responsible

would better realize his responsibility than when acting as a member of the Committee.

PARA. 14.—The Committee recommended that “every series of vernacular readers for primary instruction should contain lessons on the following subjects :

“Reverence for God, parents, teachers, rulers, and the aged.

“A simple sketch of the duties of a good citizen and universally admitted principles of morality and prudence, cleanliness of habits, politeness of speech, kindness of conduct to other human beings and the brute creation.

“The dignity and usefulness of labour, and the importance of agriculture, commerce, the various trades, professions and handicrafts.

“The advantage of bodily exercise.

“The properties of plants, the uses of minerals and metals.

“The habits of animals and the characteristics of different races, and common natural phenomena, fables and historical and biographical episodes chiefly derived from Oriental sources.

“Simple poetical extracts should be introduced into those readers. The secondary series should in part go over much the same ground, and should also include lessons on money matters, on manufactures and the mechanical arts or sciences and the laws of health.”

Moral instruction is generally contained in the readers placed in the hands of the student, but I do not think it would be desirable to divert the readers from their legitimate object, viz., as media for instruction in language, and to make them do duty for manuals on hygiene, plants, minerals, metals, animals, the human race, natural phenomena, money matters, manufactures, the mechanical arts or science, economic and political precepts, &c. If these branches are to be taught in the primary schools, there ought to be separate books on the subjects ; but they ought not to be smuggled into the readers which would make them cumbersome and defeat the general object of readers.

On the other hand, I doubt whether boys reading the primary course or the secondary course in the vernacular, who are seldom above eight or ten years of age, possess the capacity to understand many of the abstruse subjects mentioned, for instance, "the duties of a good citizen" which involve political teaching of the highest order, "the laws of health", "lessons in money matters", on 'manufactures' and "the mechanical arts or sciences", "the characteristics of different races" or ethnology, and the like. For my part I think that a short manual embracing those subjects which are easily comprehensible to a lad of ten or twelve would be more useful than stray lessons in the readers.

As to the principles which should be kept in view in the selection of text-books for instruction in English, it is remarked (1) that readers should be graduated according to increasing difficulty of idiom. I do not quite understand how the difficulty of idiom for a foreign student can be graduated. Idiom is idiom, and the difficulty in understanding idiom involved in short or long sentence is equally great. This difficulty is diminished as the student progresses in knowledge. I humbly submit that the gradation of readers should be regulated by the advancement of the student in knowledge and by the comparative proficiency or development he acquires at different stages of his progress, and as a guide to classification the plan adopted by the School Book Society in the preparation of its readers may fitly be adopted. In connection with readers I would recommend the use of Spelling Book No. 2 of the Society. It is a very useful compilation, and no Indian student in my opinion should go without it. In the present day our students are sadly deficient in spelling. I have seen B. A.s and M. A.s commit egregious mistakes in spelling, and this deficiency I attribute to want of proper attention to spelling in the lower classes of our schools. In Europe the idea of teaching spelling as spelling only, apart from reading lessons, is now, I believe, condemned, but there the language taught is a vernacular, whereas here we have to deal with a foreign language, and what is good in

the former cannot be necessarily so in the latter. The recent rage for "Spelling Bees" in England would, however, seem to indicate that the new system is not working very satisfactorily there, but whether so or not, it is certain that in Bengal it has sadly failed, and should therefore be set aside.

In clause three of their observations on readers the Committee remark—"We here take the opportunity of remarking that in the lower classes of secondary schools substantive knowledge had better be imparted in the vernacular."

I cannot concur in this. I think that the students in the English school should be taught as much as possible and as early as possible to think in English. This however cannot be the case if substantive knowledge be imparted in the vernacular and English taught as a language only. In the lower classes, except the very lowest, explanations should be given in both English and the Vernacular, and while the vernacular will help the student to understand the meaning of words and objects fully, the English exposition will enable him to increase the stock of his knowledge of English and to acquire facility in speaking in that language. In fact, the vernacular explanations should be treated as signposts to the English road.

As for history I would not be content with the history of India supplemented by that of England. I would add the histories of Greece and Rome, and, if possible, a small universal history. A good knowledge of history is essential to a proper appreciation of the progress of society and thought, and as historical allusions abound in English books, a student not possessing a fair knowledge of leading facts of general history meets with difficulty at every turn. As unfortunately under the University system the bulk of our youths do not advance beyond the Entrance standard, a sufficient knowledge of history would be exceedingly useful to them in future studies at home.

Regarding arithmetic I am of opinion that mental arithmetic according to the rules of *Sūvankara* in our schools, both Vernacular

and Anglo-vernacular, would be exceedingly useful. Under the present system of instruction these most useful rules are rapidly falling into disuse. It is not unfrequently seen now-a-days that a graduate of the University cannot in the ordinary business of life work out a common sum of interest, measurement, wage or barter without the aid of slate and pencil or paper and pen, while a peasant boy who has learnt only the rules of *Savankara* may give answers in a trice without any such extraneous aid. The Bengalis have been proverbially good arithmeticians, and they were indebted for this proficiency to the rules of *Savankara*, but under the present system of education they are losing this distinguishing-merit. I would add zemindari and bazar accounts and book-keeping to the course of arithmetic.

PARA. 16.—I was not sufficiently explicit in my previous Note on the subject of technology. I am of opinion that crude names should as a rule be transliterated, but that all terms which express qualities of things, symptoms of diseases, results of manipulations and experiments, in short which can note ideas and are useful only so long as they can serve that purpose effectually, should invariably be represented by their corresponding vernacular terms or by periphrases according to circumstance, but never transliterated. Correlative words like “fever” and “consumption” and compound chemical names in which every member is required to retain its distinctive meaning, ought to be rendered into the vernacular. The great object of instruction is not words but ideas, words serving only as vehicles for ideas, and those words must be the best for instruction which most readily convey much ideas. Inasmuch, however, as there seems to be a very strong and apparently irreconcilable feeling in the matter, and it is not desirable to prolong discussion about it, I agree with the majority of the Committee that we should let the matter alone and watch the development of the different schemes “in the struggle for existence.” But this opinion is not consistent with the decision recorded by the majority that “transliteration of European scientific terms should be

employed in all cases where precise vernacular equivalents are not already in current use." This decision is not in accord with the policy of neutrality professed by the Committee. Either the Committee should adopt a scheme definitively or give fair play to all. To say that "the question will ultimately settle itself", and then to give an adhesion to one in preference to others, is neither fair nor just.

MILITARY EXPENDITURE.

Memorandum for the Committee of the British Indian Association.

LORD CANNING was of opinion that the military expenditure, chargeable to the Indian revenues, should not exceed $12\frac{1}{2}$ millions sterling, and if the main salient points be regarded, this opinion was abundantly justified. The enormous military charges of the present day *viz.*, £16,238,600 are attributed to the larger European force which is now maintained, compared with that before the Sepoy Mutiny of 1857,—but this plea cannot be sustained. In the evidence before the Select Committee on the reorganization of the Indian Army, in the report of that Committee, and in subsequent reports on, and discussions, of that report, it was held, with apparent truth, that the cost of a European force, consisting of line troops, would not much exceed, if it did at all exceed the cost of the same number of European troops engaged for local service. Remembering this, and the further fact that the strength of the European force in India in 1856-57 was 46,159 and that in 1877-78 it is 66,335, or only 20,000 more, the every great increase of military expenditure since 1856-57, when the expenditure amounted to £13,287,798 is not attributable to the extra strength of Europeans. With regard to the Native Army on the other hand, which, in 1877-78, is little more than half of that in 1856-57, (*viz.*, 123,605 against 231,139,) the expenditure in the present day ought to be very much less

than that in 1856-57. Various charges too, such as, for the Survey Department, the net military pay of Engineer officers in the Public Works Department, and the like, have been transferred from the military to other estimates. Setting the great reduction under these main heads against the one increase for what, after all, is but a moderate augmentation of the European force that was maintained in 1856-57, it may be humbly submitted that the military expenditure in the present day has attained to an amount which is not warranted by the facts relating to the strength and organization of the Indian military forces, that is to say, to the units of military expenditure, by which the economy or extravagance of the financial administration of the army must be judged.

The contrast between the past and the present amounts of military expenditure is, however, incomplete while it is confined to the amount of military charges. The reformation of the Police throughout India was taken into account in reorganizing the Native Army and reducing its numbers ; and could the police charges of the present day and of 1856-57 be added to both sides of the account, the comparison would be still more unfavorable to 1877-78, but more true than that above presented.

These remarks sufficiently establish the general fact of a very great increase of military expenditure, and that only a small proportion of that increase is accounted for by the direct charges for the extra strength of the European force in India. Perhaps as much, again, may be attributed to a failure to reduce the superfluous strength which is still maintained in the Native Army; but it is evident from the published details of the military expenditure, that by far the largest part of the increase of military charges is owing to the fearful growth of the payments by the India Office to the War Office on account of expenses incurred in England for British troops serving in India.

By far the larger part of these payments consists of indirect charges, that is, of payments, not for expenses incurred specifically for British troops in India, but for the value of India's share in

certain expenses, which are incurred for the British Army as a whole, and in respect of which India's share is appraised by the War Office, with but little power in the India Office to challenge the details of the appraisement, because effective criticism of details is possible only with such an intimate knowledge of the history of the organization of the British Army and of minute details respecting its military economy, as the officials in the India office cannot be expected to possess. The appraisement of India's share in the expenses of the British Army, when conducted under these disadvantages, becomes practically the opinion of the War Office as to what amount India should pay.

Thus it has come about that, although the Home charges for British troops in India have been repeatedly canvassed by the India Office with the War Office, the former has been invariably worsted in the controversy.

Looking at the broad facts, the Committee cannot but feel that an unduly great burden has been thrown upon India, in the amount of payments to the War Office for these ill-defined Home charges on account of British troops in India ; for the Committee find that while India's burden has increased on the plea that England now maintains a more costly army than formerly, the military expenditure chargeable to the British Exchequer has decreased both under non-effective and effective services. The reduction of expenditure under non-effective services is all the more singular, because that expenditure, as charged in the Finance accounts of the United Kingdom, is the gross expenditure, that is, it is an expenditure for pensions, which includes the payments to pensioners of the British Army who had served for any time in India. The accounts thus present the bewildering facts that the charge to India, on account of pensions of British troops in India has, since the Mutiny increased by much more than half a million sterling a year, while the gross charge, including this Indian section thereof, has decreased; in other words, that the British Exchequer has benefited not only by the reduction of the

total pension charge, but by a yet greater reduction of the British share of that charge, in the degree that India's share has increased. The presumption is that a great deal of the charge which is thrown upon India is not fairly debitable to her ; and if details were properly scrutinised it would be found that the enormous payments on account, more particularly, of the non-effective services are illegal, that they have been made without the sanction of law, and that the claims on which the payments have been made are at variance with the spirit of the law.

Thus with regard to the charges for effective services the law lays down that the revenues of India shall bear "all the expenses incurred, or to be hereafter incurred, for raising, transporting, and maintaining such forces as shall be sent to India for the security of the said territories and possessions, in addition to the forces now there." The expense chargeable to India under this law is clearly any and every extra expense incurred specially and directly for the British troops in India, and not part of any other expense which would be incurred for the British Army, if India were not under British military occupation. Tested by this principle, it will be found that India should be relieved of a very large portion of the charges which have been debited to her, on account of effective services, by the Honourable Mr. Bouverie's Committee. Thus :—

I.—Out of 68 Infantry Brigade depôts, the cost of the staff of *ten* depôts is debited to India because that is supposed to represent the proportion chargeable to India, out of a gross staff which works for regiments at Home, in the Colonies and in India and for the Militia ; but it would be found on enquiry : *1st.*—That this charge perpetuates an amount of debit against India equal to that which in the days, down to 1867, of separate India depôt battalions was admitted to be extravagant. *2nd.*—That the officers for the Brigade depôts have been provided without any expense to the British Exchequer, additional to the expense which was incurred by the Exchequer, on account of officers, before the forma-

tion of the depôts. 3rd.—That the depôts are maintained primarily and mainly for the more efficient organization and training of the Militia, and that only as an incidental duty are they employed for recruiting regiments in India. On this point there may be safely ventured an assertion, which the reports of Major-General MacDougall's Committee amply substantiate, that were the British Army to be withdrawn from India not one of the existing Brigade depôts could be reduced. Rather, in that hypothetical case, with India in consequent occupation by some other European power, England's dependence on her Militia would be increased, and the number of Infantry Brigade depôts might have to be multiplied instead of being reduced. Inasmuch, then, as England would have to incur at least the present expense for these depôts were British troops to be withdrawn from India, and as that expense has been provided, for the most part, without additional charge to the Imperial Exchequer, no part of that expense is an extra expense on account of the employment of British troops in India, and accordingly no part of it is chargeable to India.

II.—Another illustration of the present erroneous system of debit to India is the charge for difference of numbers. India has to pay a capitation rate for the number by which the strength of the corps sent out in relief exceeds the strength of the relieved corps which return Home. For example, five infantry regiments are relieved from India every year; other five regiments are accordingly retained in England at the Indian strength, (which exceeds the Home establishment) in preparation for this relief. But this excess of strength, over the complement of regiments for Home service, in the five regiments which are first on the roster for foreign service in India, does not entail any extra expense on the Imperial Exchequer. The total strength of infantry to be maintained at Home is fixed yearly by Parliament; and that aggregate number is distributed among the infantry regiments at Home; those which returned latest from abroad being

on a reduced establishment, those that have yet some years to serve at Home being on a somewhat larger establishment and those that are first for foreign service being of the same establishment as the regiments in India. This mere arrangement of numbers in a regiment, according to the proximity or remoteness of the period for its proceeding on foreign service, does not affect the total strength of infantry at Home, which is determined by the number of regiments at Home and by military considerations. Accordingly, it cannot be said that the pay of the soldiers, within this total strength, which is the sanctioned establishment for the British army at Home, is, to any extent whatever, an extra expense on account of the British force serving in India ; yet this pay, for the period required for training a recruit, forms a heavy item in the charge against India for difference of numbers. The Committee are aware that regiments relieved from India return to England with weak numbers ; and that, accordingly, there is extra expense for recruits required to complete their weak numbers to the sanctioned Home establishment. But the extra expense incurred for this purpose is only for the recruit's bounty, levy money and clothing ; his pay is within the charge for the sanctioned Home establishment ; so also is the barrack accommodation that is charged to India on his account, and the horse which the recruit rides while being drilled for the cavalry. All these are expensive items in the amount of capitation rate that is debited to India ; and it would be found on enquiry that they do not entail upon the English Exchequer any expense extra to that which England would have to incur, were British troops to be withdrawn from India. No doubt the British Army is at some disadvantage in receiving five weak regiments from India, in exchange for five strong ones. But 1stly, in respect of pay, barracks, horses and so forth, there is no extra expense to England by reason of this exchange, and the law allows, in such a case the recovery from India of only an actual extra expense :—2ndly, against this disadvantage should be set the great gain to England .

in her avoidance of a larger naval, and, perhaps also, a larger military expenditure such as she would have to incur were India to be occupied by the troops of a foreign European power instead of by the British Army.

III.—Of like erroneous character is the debit to India on account of the staff of artillery *dépôt* Brigades and of the expenses of *dépôt* batteries. The artillery *dépôt* Brigades are maintained primarily for the organization and training of militia artillery, and (especially since the withdrawal of the Head Quarters of the Artillery Brigades from India, with field officers who, while chargeable to India, will be available at Home for general duty) India is not chargeable for any expense on their account. The like remark applies to the *dépôt* batteries. These batteries are an effective part of the artillery force for the defence of the United Kingdom. When the artillery strength requisite for that defence is determined, it is impossible for the military authorities to exclude these batteries from their reckoning of the artillery force available for that defence. In other words, the expense for these batteries is not an expense extra to that required for the British artillery at Home. And it would be found, on careful investigation, that the officers for these batteries have been provided without any addition to the establishment of the royal artillery, as it existed in 1857, up to which year not a single battery of royal artillery had ever served in India.

IV.—A similar error pervades the debits to India on account of expenses for various military educational institutions. Those consist of (1) a staff of Officers for maintaining discipline, (2) of Professors one for each subject, (3) of assistant professors, (4) of non-commissioned officers, who are integral parts of the force for the defence of the United Kingdom. The 1st and 2nd are charges which would be incurred even if India were not under British military occupation, and the 4th is an expense which is fairly debitable to the Imperial Exchequer. Respecting the 3rd it may be left to a great and rich Government like that of

England to decide whether such a trifle should be debited, (not the whole, but a fraction representing India's share) to India.

Other illustrations could be added of the manner in which India has been debited with amounts, on account of effective services, that are not properly recoverable from her, because the War Office has set aside that provision of the law which shields India from any and every charge which is clearly not an extra expense incurred actually and directly on account of British troops in India. But it may suffice to pass on to the expenditure for non-effective services.

Respecting this expenditure it appears that a sum of £60,000 a year was paid until 1860, for the pensions of British troops in India; that from 1861 until 1866, this was superseded by a capitation rate of 3*l.* 10*s.* for each effective officer and soldier in India, at which rate £1,368,750 was paid for the years from 1861-62 to 1866-67, and that very large payments, since the expiration, in 1866, of the law which empowered the levy of the capitation rate, have been made without the authority of any law. From that time until 1876, there was paid the sum of £3,156,000 without the sanction of any law, and without any proof that the pension charge, entailed, to the end of each of the years from 1867 to 1876, by the British force serving in India, amounted to anything like that sum. That amount is the capitation value of India's share in the stipends of pensioners, who have been thrown off to pension since 1866. But there are various reasons why this mode of payment should cease.

Firstly, the magnitude of the payments under this system is presumptive evidence of some serious inaccuracy. When Col. Sir Alexander Tulloch's Committee, in 1859, reported on the alleged insufficiency of the payment of £60,000 a year, for the pensions of British forces in India, they committed various errors, such as in assuming, for their capitalisation of the values of pensions, a rate of interest too low, an expectation of life too high, a number of yearly transfers to the pension list too great and the

like. Then again, they over-estimated the charge for Full Pay and for wound pensions on like erroneous data. Notwithstanding these serious errors, which perforce were exaggerated when the over-estimated yearly charge were capitalized, the Committee brought out £200,000 a year as a sufficient payment for pensions for a force of 30,000 men. In that excessive proportion, with a British force in India of 63,000 men, the yearly charge would be £420,000; whereas in 1876-77 it was £368,330, and the estimate for 1877-78, provides for £550,000, exclusive, in each year, of 100,000*l.* in the capitalised value of the pension of soldiers transferred from the Indian to the British army. It is evident that, if the exaggerations in the Tulloch Committee's estimate were to be struck out, the charge according to such amended estimate would be very much less than the sums that are now being paid. One or two of the errors of the Tulloch Committee have been avoided in the present method for the capitalization of pensions; but other errors, such as too high an expectation of life on the pension list, too incautious an admission that India should pay in the proportion which the Indian service bears to the total service of the pensioner, and the like, appear to have been perpetuated, and a new error appears to have been committed; for whereas the Half Pay List consists partly of a reserve of officers for the Staff, and partly of officers for whom, when one is brought on Half Pay, another is transferred to Full Pay, India has apparently been required to bear the charge for Half Pay in proportion to the Indian service of the officers, though for the two classes of Half Pay officers just mentioned no extra expense whatever is entailed on the Imperial Exchequer by the employment of a British force in India.

Secondly, the payment of each year's pensions, as they accrue due, is preferable to a lump payment of the capitalized value of each pension, at the time of the Pensioner's transfer to the Pension List. For even if the *data* upon which each pension is capitalized were correct, this mode of payment would not be expedient, because it relieves the tax-payers of the future at the expense of the

transfers to pension, and to full rates of pension, must fall off considerably ; and as this relief will tell in the next ten years or thereabout, there is thus double reason why in the present day the Government should not pay in advance, what seems to be some 12 to 14 years pension, for each new pensioner, as the capitalized value of his pension. .

Thirdly, the capitalisation of the value of each pension is beset with error. For, 1stly, the correctness of the *data* for estimating the duration of life on the pension list can hardly be admitted. The Tulloch Committee, for example, adopted *data* which gave a longer expectation of life for those who had served in the tropics than for those who had not, and the *data* in other respects, were palpably inaccurate. 2ndly, the rate of interest should be the Indian rate, because by the capitalisation the English Government avoids the risk of yearly Indian payments which is represented by the excess of the Indian over the English rate of interest. 3rdly, the liability of India for each pension in the proportion of the Indian to the total service of the pensioner has been too hastily assumed.

Under the last mentioned assumption, and with the system of relief of British regiments every ten or twelve years, India becomes liable for a part of the stipend of every pensioner thrown off from every regiment in the British army, in and out of India, though the strength of the British force in India is about one-third of the total strength of the British army. It stands to reason that if the one-third force were always in India, and the other two-thirds of the British Army always at Home or in the colonies, the charge to the Imperial Exchequer for the two-thirds would be more than double the charge to India for the other third, by reason of the greater mortality in India, which diminishes the number of pensioners, and the greater invaliding in India, which, if it increases the number of pensioners on low stipends, causes corresponding reduction of the number on large stipends; and this advantage to India would continue further on the

pension list, where those who have served in the tropics have presumably a shorter duration of life than those who have not. These advantages, in lesser charge to India, and much greater proportionate charge to England, would result, if the one-third of the British Army which is kept in India were always in this country, and the other two-thirds were always elsewhere. The fact of the other two-thirds of the British Army being passed through a tour of service in India ought not to lighten the pension charge to the English Exchequer, at the expense of the Indian; but this is really what happens, when India is made to bear a share of the stipend of every soldier who is pensioned from the British Army, here and elsewhere, in the proportion of his Indian to his total service.

If the rule of proportion of Indian to total service be followed in future, at least some compensation for the palpable disadvantage, to India, from this reckoning should be allowed in the form of an abatement. For example, out of the total of each soldier's pension, two pence a day might be taken off as an Imperial charge, and the remainder might thus be debited in the proportion of Indian to total service.

But a yet further abatement should be allowed. Under the rules for the army reserve, every member of the Reserve, who is not an enrolled pensioner, is allowed three or four pence a day in the Reserve; this is tantamount to an admission that the enrolled pensioner's service in the Reserve is worth three or four pence a day, and there should be an abatement of this sum, also, from the stipend, before dividing the rest of the charge for each pensioner between England and India.

Again, there is the additional fact that British poor rates are relieved to the extent of every pension that is paid to a British soldier; on this consideration India's liability for a share of the pension of every soldier, who may have served, for any time, in India, should not be strained.

India, therefore, may well ask of Parliament;—1st, that the

payment of the capital value of each pension should cease, and that payments of the pensions actually due in each year should be substituted ; 2nd, that if India is to share in the pension of every soldier of every regiment in the British Army in the proportion of his Indian to his total service, liberal abatements from the gross stipend should be made, in the manner above indicated, before assessing India's share of liability for only the remainder of the pension in the proportion of the Indian to the total service of the pensioner.

It would, however, be a far more satisfactory course if India, when taking over a regiment from the British establishment, were to take over its non-effective as well as its effective charges, for the period only of the service of the Regiment on the Indian establishment ; that is to say, if a regiment arrived in 1877, all the pensioners, that, at any former period, had been thrown off from that regiment, and are still living, would be brought on the Indian establishment ; and similarly all the pensioners that may have been brought on with the relieved corps would be thrown off the Indian establishment. For this adjustment it would be necessary to reopen the account of past capitalised payments, from 1861, and to allow India credit for the interval from 1861 to 1866, for the strength of force in excess of 30,000 men, in respect of which excess the full constant number of pensioners with a full proportion of Indian service could not have been completed in that interval. Even if the allowance on this head were roughly made with some leaning towards England, still, the charge to India on account of pensions, from 1861, regulated on this principle, would fall short of the very large sums, which have been paid by India up to 1876-77, without sanction of any law for those payments from 1866.

The several millions sterling, which are spent in England out of Indian revenues for pay and pensions of European, military and civil, officers and soldiers, benefit the revenue and the resources of England, apart from the relief which the Imperial

Exchequer derives from a portion of the disbursements ; this consideration should secure for India a generous treatment in the appraisalment of her liabilities for payments to the Imperial Exchequer, and an absolute exemption from every charge, which is not clearly shown to be a *bond fide* extra expense, in England, on account of British troops serving in India.

BRITISH INDIAN ASSOCIATION ROOMS, }

No. 18, BRITISH INDIAN STREET.

The 28th February, 1878.

KRISTODAS PAL.

DOORGA POOJA HOLIDAYS.

A Committee was appointed by the Government of Bengal to consider the question of Doorga Pooja holidays. The Hon'ble Baboo Kristodas Pal and Baboo Doorga Churn Law, differing from the majority, conjointly recorded the following dissent.

We regret we cannot join our colleagues in their recommendations for the reduction of the Doorga Pooja holidays from twelve to four days, and cannot therefore sign their report.

We observe that this Committee has been appointed by Government on a representation from the Bengal Chamber of Commerce, dated the 27th November 1878. It might not be without interest to note the progress of opinion in the Chamber on this subject from time to time.

The Government has always recognized the principle that 'no one should, in consequence of his employment in a Government office, be coerced to attend on those days on which his religious creed and observances require his absence.'

Although the holidays on account of Hindu festivals were varied from time to time, no general revision took place till 1861.

In 1861, the Chamber made a representation to Government based upon the following resolution—"that the Committee be

requested to communicate with the Government, pointing out the great inconvenience and loss resulting to the interests of those having mercantile relations with this port, owing to the frequent closing of the Custom House and other public offices on the occurrence of Hindu holidays, and to suggest that the list of those holidays be revised with the view of ascertaining whether they may not be considerably reduced without depriving the Hindu employes in such offices of those holidays which are actually required for the ceremonial observances of their religion."

The Government accordingly appointed a Committee consisting of Mr. Harvey, Sub-Treasurer, Mr. W. S. FitzWilliam, a member of the Chamber, and the late Hon'ble Prosunno Coomar Tagore, "to report on the subject after such enquiry among all classes as they might think necessary."

This Committee recommended the grant of thirty-two days including a general holiday of ten days at the time of Doorga Pooja as holidays to the Hindu servants of Government on account of Hindu festivals, and four days to the Mahomedan servants of Government on account of Mahomedan festivals, and the Government added four days as general holidays on account of Christian festivals. The principle on which the new system was based, was this—"that the present system of advertising and closing Government public offices on the occasions of Hindu holidays be put an end to, and that on all Hindu and Mahomedan holidays and festivals included in and for the period stated in the list given above, the attendance of Hindu and Mahomedan employes be dispensed with, that the Government offices remain open, however, on those days for the conduct of public business, which will be conducted by the remaining portion of the establishment."

The Chamber, however, immediately after complained to Government that the new system would not work practically. It stated that "while the meeting accepted the revised number of Hindu holidays as being in accordance with the Chamber's appli-

cation for as large a reduction as could consistently be made, objection was made by a large majority to the provision by which on all such holidays the several Government offices at the presidency shall remain open for the conduct of public business. The objection was made on the ground of the extreme inconvenience resulting from the modified system, which, by releasing from attendance all the Hindu employes who chose to avail of the right of absenting themselves, rendered it utterly impracticable to carry on ordinary business operations by the agency of the few Christian assistants whose attendance was compulsory.

"The practical effect of this change was experienced on the two holidays which followed shortly after the publication of the notification, and a very general dissatisfaction expressed in consequence.

"It is therefore respectfully submitted that the new system has not been successful in this respect, and the Committee of the Chamber trust His Lordship in Council will be pleased to amend that portion of the Government order by directing that all public offices shall be closed on all recognized public holidays."

In reply, the Government of India stated that "the new system was adopted after a careful enquiry made in accordance with an application from the Chamber. Some temporary inconvenience may be expected at first from all changes, and His Excellency in Council trusts that the inconvenience in this case will be found to be but temporary. Should it, however, be found after a further trial that the inconvenience is such as to interfere with the interest of commerce, the subject, if brought to the notice of Government, can be considered."

The Chamber, however, was not satisfied with the reply of Government, and again, addressed it on the subject under date the 2nd October 1861.

It remarked, whatever may be the number of holidays, general or special, Christian or Hindu, it appears to the Committee essential that they should be observed as holidays for all classes ;

for, as they have already remarked, while natives employed in public and private offices have the privilege of absenting themselves on certain authorized days, and avail themselves of it, they endeavour to conduct ordinary business without the aid of ordinary establishments, must obviously be attended with inconvenience to commerce, and the experience of that inconvenience has led to the general desire (the expression of which I am now directed to repeat) to revert to the former practice of closing public office on public holidays.

Representations were also made to Government by other public bodies protesting against the system introduced in 1861.

The Government of India, in supersession of all previous orders, directed "that the following days, and no others, shall be observed as close holidays in all the public offices, except the Courts of law and the offices of Department of Public Works, for which special arrangements exist." The list comprised 27 days as holidays on account of Hindu and Christian festivals, including 12 days as Doorga Pooja vacation, being two days less than the number of days sanctioned in 1861. In their report for the half-year ending on the 30th April 1862, the Committee of the Chamber remarked—"There are, the Committee are aware, different opinions as to the number of holidays and as to the time when they should be given; the list now published, however, accords generally with the opinion of the majority of the members as recorded last year, when the sense of the Chamber was taken."

It needs be observed here that the list of 1862, was accepted by all parties as a compromise. The Hindu holidays, including a general holiday of ten days on the occasion of Doorga Pooja were reduced from 32 days recommended by the Holiday Committee in 1862, to 21 days in 1862.

In 1867, two other holidays were, however, added on the application of the Hindu community supported by some of the leading European merchants of this city, though not by the Chamber in its corporate capacity.

In 1874, the Chamber applied to the Bengal Government for the reduction of the Doorga Pooja vacation from 12 to 7 days as a "liberal allotment of time for the observance of the religious ceremonies and other purposes by the Hindus. The Chamber urged this request on the ground of the growing traffic of this port and the extreme inconvenience occasioned to the trade and the shipping by the closing of the Custom House, and the compulsory cessation of work for so long a time as twelve days." The Bengal Government, after a full consideration of the representation of the Chamber, and also another from the Calcutta Trades' Association, which went much further and advocated that "five days only should be allowed as close holidays during Doorga Pooja," submitted, for the favourable consideration of the Governor-General in Council, the proposal that "in future the Custom House at Calcutta shall remain closed during the Doorga Pooja on the five days only which are absolutely necessary for the religious observances of the Hindus, instead of for seven days, as sanctioned on the last occasion by your letter No. 3133, dated the 4th September last."

His Excellency the Governor-General in Council was pleased to sanction this proposal.

After the lapse of about four years, the Chamber renewed its application in 1878, for the reduction of the Doorga Pooja vacation, not from 12 days to 7 days as before, but from 12 days to 4 days.

The Committee of the Chamber in their letter to Government dated the 27th November last, referred to above, admit that "they do not undervalue the convenience attending the entry and clearance of vessels during the holidays, and the partial importation and exportation of merchandise on passes obtained in anticipation of the holidays"; but they add, "these operations are after all only a fraction of the general business of the port which is practically prevented from being carried on during that long interval : for while the Bank of Bengal and the other Banking establishments are compulsorily closed, a general suspension of business, for a

period longer than what takes place in any other port in the world, is inevitable, and the inconveniences resulting from such a system are of such grave concern to the commercial community, that their interests urgently call for a material amendment of the recognition which these holidays receive from Government."

The above we take to be the gist of the complaint of the Chamber. But from the enquiries we have been able to make, and from the personal knowledge which one of us (Baboo Doorga Churn Law) possesses, we are in a position to state that the inconvenience complained of has been minimized under the arrangements introduced since 1874. With the exception of five days absolutely required for the observance of the religious ceremonies the Custom House is kept open during the vacation; although the Banks are closed the exchange operations may be and are carried on, and as a matter of fact the Banks do take cheques from the purchasers of bills during the vacation. So remitting by telegram or otherwise need not be suspended. With regard to transactions in produce there is a cessation for four days of Pooja proper, but for the remaining few days of the holidays they go on as before, and little inconvenience is felt on account of the vacation, or the closing of the Banks, inasmuch as cash payment is not generally required; because, then who can command credit get it all the same, both when there are holidays and when there are no holidays. We do not deny that there is some inconvenience owing to the general suspension of business during the Doorga Pooga vacation, and that it would be an advantage to men of business and commerce if the Banks and public offices were kept open during the holidays. But there is an inconvenience which need not impede the course of commerce, except in those cases in which men work without sufficient capitals. It arises in this way. Some become mature during the holidays, and as such bills must be paid previous to the holidays, the merchant has to suffer loss of interest for his money by payment in anticipation. But this practice has always been followed from the establishment of British

commerce in this city, and if it is an inconvenience to a few it ought to be put up with for the sake of the many, that it is say, in consideration of the general convenience not only to the Hindu community, whose greatest national festival takes place on this occasion, but also of all classes of the community who enjoy this general holiday and have come to regard it as a public privilege. On this point the remarks of our colleague, Mr. Cochrane, Manager of the Agra Bank, are deserving of attention. Although he has signed the report of the majority on the ground that the Banks "are closely connected with, and to a great extent dependent upon, mercantile interests," still in his note on Mr. Yule's proposal he says—"So far as Banks are concerned, any material change is much to be deprecated, because the present annual holiday is of the greatest consequence to European employes, as affording them regularly time for rest and change of scene, which otherwise in all probability they would be unable to avail of." The same remarks apply to the European and native employes in private establishments, and to 99 per cent. of the European and native servants of Government in the public offices in this city, for scarcely one per cent. can avail themselves of the privilege leave under the leave rules, inasmuch as such leave is not granted when the absence of an assistant is attended with additional expense to Government.

It is observable that the number of holidays in Bengal proper does not exceed those in the other provinces. In Bengal itself the number of Hindu holidays in 1860, including eight days for Doorga Pooja vacation was 35 days, but in 1861, it was reduced to 32 days, and in 1862, to 27 days including Christian holidays. At present the total number is 29 days, including 12 days of the Doorga Pooja vacation. We append hereto lists of the holidays observed in Madras, Bombay and the North-Western Provinces marked A, B, C. It will be observed that in Madras the number of holidays is 39 days of which 13 are general holidays, and the rest granted for particular festivals. The largest vacation there is eight days from Christmas to New Year's Day, which is a general

holiday. In Bombay the number of holidays is no less than 74 days, divided, however, among different sects ; thus general holidays 4, holidays for Christians 11, for Hindus 11, for Mahomedans (Sunis) 13, for Shia Mahomedans 13, for Parsis 11, and for Kadims 11 days. In the North-Western Provinces the number of public holidays is 29 *plus* the days of solar and lunar eclipses which are not now allowed in Bengal. The longest vacation in the North-Western provinces is the seven days during Christmas. It would be thus seen that, compared with the other provinces in Bengal proper the number of holidays is the lowest. It is true that in Madras and Bombay the general holidays are fewer, and that the other holidays are given only to the followers of particular sects. But the system had been tried in Calcutta, and was abrogated on the earnest representation of the Chamber of Commerce as stated above.

No Indian could be so ungrateful as to deny that the material prosperity of his country was mainly due to British commerce and enterprise, and that it was therefore his duty to co-operate with the British merchant in furtherance of that commerce. So far as the frequent closing of public offices in consequence of the observance of religious festivals and ceremonies interfered with the course of trade, the Hindus have already made a large sacrifice for the sake of its requirements. Formerly the Hindu holidays, as already stated, amounted to 35 days, they were reduced to 32 days in 1861, and now they do not exceed 22 days including the general holiday comprised in the Doorga Pooja vacation. On the other hand, the British merchant and trader ought to remember that they have come to a foreign land, and that with all their resources they could not have carried on business and enriched themselves, if they had not been aided with the local knowledge, labour and skill of the people of the country. The obligation is thus mutual, and there ought to be therefore concessions on both sides. If the Hindus have submitted to the reduction of their holidays from 35 in 1860 to 22 at the present day, the British merchant and

trader in our humble opinion ought to concede them the privilege of the present Doorga Pooja vacation, which has become a national institution, and which is enjoyed by all classes of the community in the capital to the great benefit of their health after the wear and tear of a whole year.

The Chamber in their letter to Government remark "that they have no desire whatever to curtail the period absolutely required for the observance of the Doorga Pooja ceremonial," but they forget that the whole fortnight of the Pooja is held sacred, it is called *Devipaksha*; and that it is devoted to divine worship. In most families the Pooja commences from the first day of the lunar fortnight of October; the Pooja ceases on the tenth day, and then the ceremony of annual embracing commences, which goes on with visits from village to village, town to town, district, to district till the end of the fortnight. This the greatest national festival of the Hindu is thus an occasion for religious worship and family reunions, which are held in the highest esteem by the Hindu community; at this time the Hindu employés also revisit their homes at a distance after protracted absence, for which they have no other opportunity; many also avail themselves of the facilities of travel and visit distant provinces for recreation and health. It would, we have no hesitation in saying, cause the greatest dissatisfaction and hardship to the Hindu community, were this vacation to be reduced as proposed by the majority of the Committee from twelve days to four days. From the way in which the subject has been argued by the majority, it is evident that the four days proposed to be conceded are offered by way of a compromise, and we are free to confess that those four days, as also the other Hindu holidays, if stopped, will be beneficial to commerce, and that, if the interests of commerce and trade were the only objects to be looked to, the Government would be fully justified in totally stopping all holidays. But the Government, we venture to submit, cannot divest itself of its high and sacred responsibility as the guardian of the myriad millions of this

country, and it will doubtless consider whether the religious feelings, health, comfort, convenience and good will of its subjects and servants should be sacrificed for the sake of a slight inconvenience to a small but influential section of the community.

In 1872, we observe it was proposed to grant certain holidays on account of Mahomedan festivals by reducing the number of Hindu holidays. A committee consisting of Mr. D. J. Macneill, then Officiating Secretary to the Board of Revenue, and Mr. F. B. Peacock, then Registrar of the High Court, was appointed to consider this question, and they reported as follows:—

“If, however, it be judged absolutely necessary to reduce the total list by more than the single day already mentioned, the only suggestion that you can make is that those days only which are absolutely necessary for the observance of religious ceremonies at the time of the Doorga Pooja should be allowed. We have ascertained that six days only, out of the twelve at present incorporated in the list, are indispensable for this purpose. This would allow a reduction of six days, and this, added to the one day above mentioned, would make up the seven required.

“But we feel, and we think, that Government will recognize, that there are grave objections to such a curtailment of the Dusserah vacation. The object of allowing twelve consecutive days at that period of the year was, we believe, to enable as many as possible of the Hindus employed in Government offices to visit their homes during the observance of the Doorga Pooja festival, and we are certain that any arrangement tending to interfere with this indulgence would be felt as a severe hardship. On this ground, we are unable to recommend the adoption of this course, though we have felt it our duty to point out the Government its possibility.”

The Government accordingly made no change whatever. The reasons which led the Government in times past to disallow the proposal for the reduction of the Doorga Pooja holidays, we humbly submit, are in full force at the present moment.

The recommendations of the majority are—1stly, that four days should be observed as close holidays on account of Doorga Pooja ; 2ndly, that if the fourth day of the Pooja falls on Friday, the offices should not re-open until the following Monday ; and, 3rdly, that while money offices connected with the trading operations of the city should be closed on the four days mentioned above, the heads of the departments or offices may grant leave to their subordinates for whole or any part of the twelve days, provided the current work of these offices is carried on.

The recommendations of the majority, we submit respectfully are not quite consistent. If they think that the closing of the Custom House and other public offices for six days, when the fourth day of the Pooja will fall on Friday, will not cause inconvenience to the mercantile community, then six days holidays will not be objectionable. This conclusion is tantamount to the recommendation made by the Chamber in 1874, for one week's vacation for Doorga Pooja. If one week's vacation be granted there remains Lukhee Pooja for which two days used to be always allowed, when the Doorga Pooja vacation did not exceed eight days. Seven days for Doorga Pooja and two days for Lukhee Pooja, will make nine and if a Sunday intervenes it will make ten days, if employes in public offices be required to attend the short interval of two days intervening between the Poojas, it will cause them much inconvenience and hardship. Persons living at a distance will as a rule take casual leave for those two days, and business will not necessarily be much furthered by this arrangement. It was possibly in consideration of these circumstances, the Government had resolved to extend the original Doorga Pooja vacation of eight days to twelve days. As for the third recommendation that the heads of departments or offices should have the discretion to grant leave for the whole or part of the twelve days holidays, that system, as stated above, had been tried in 1861, but was abandoned on the representation of the Chamber of Com.

merce. We do not think it would lead to any advantage to revert to that system.

The proposal to keep open the money offices, or those offices with which the leading operations of the city have connection, would, we are of opinion, ultimately lead to the abolition of the present Doorga Pooja vacation. The Hindu employés, in those offices would naturally complain that there should be one rule for them and another rule for their brethern in other public offices, and as it would not be desirable to foster heart-burning and discontent among any class of public servants, justice and policy would dictate that all should be placed on an equal footing. Besides, what is now enjoyed as a right is not only to be taken away from those who are connected with public offices in which commercial monetary business is transacted, but also from those who are not so connected, and the right is to be converted into a matter of grace dependent upon the good will of the heads of departments. This change is certainly not required in the interests of commerce or trade. The eventual result would necessarily be the abolition of the present Doorga Pooja vacation, a result which would be distasteful to all classes of public servants, and could not but be deeply deplored.

It is of the utmost importance for the satisfactory working of the Government offices that the employés should be in perfect health and vigour, and to secure that object the Government has devised the schemes of furlough and privilege leave by which periodical rest from labour may be obtained. Those schemes, however, cannot be brought into play in connection with the lower grade officers. Their services cannot be dispensed with without seriously interfering with progress of work in public offices, and for their sake an annual general holiday of 12 day is by no means improper or extravagant. The loss sustained during the vacation is fully made up by improved efficiency during the rest of the year. The argument is the same on which Sundays are allowed to the Hindus and the Mahomedans. Osten-

sibly it entails a loss of 52 days to commerce, but in reality it benefits the community much more largely than what would be gained by including them as working days. Under the name of Christmas vacation leave is allowed in almost every part of Europe and such leave there does not seem materially to interfere with the progress of commerce. It has been observed by some that the Christmas week is much more enjoyable season than the Dusserah. This is true enough for Christians, but to the great bulk of the Hindu and Mahomedan officials the autumn is a much more pleasant season than the depth of mid-winter. The question, however, does not refer to season but to leave *in se*, whether it would be beneficial to the employés in public offices and to the officers themselves to have an annual prolonged vacation, and put in this form medical opinion will, we feel confident be in favour of the vacation.

Considering, then, that the arrangements made by Government in 1874, by which the Custom House is kept open during the Doorga Pooja vacation, except for five days, and the jetties work without intermission, the inconvenience to the trade of the city is not serious ; that the number of holidays in Bengal is less than that in the other provinces ; that a general vacation of seven or eight days during Christmas does not in any way affect or inconvenience commerce in Madras and the North-Western Provinces ; that the present Doorga Pooja vacation is necessary for the observance of the religious and social ceremonies of the Hindus ; that it is a general holiday for all classes of public servants for rest, recreation and travelling ; that it affords almost the only opportunity to the lower grades of officers to visit their mofussil homes once a year ; that in a sanitary point of view a prolonged rest of 12 to 15 days in a year is of great importance, as it enables the officers of Government to discharge their duties much more satisfactorily than what they could do if no periodical rest was allowed ; and that its curtailment would give too much hardship and dissatisfaction among the Hindu as well as other servants

of Government, and also among the general public whose business engagements are regulated by the practice in the public offices. We are of opinion that no change in the present Doorga Pooja holidays is called for.

KRISTO DAS PAL.

DOORGA CHURN LAW.

The 6th June 1879.

SETTLEMENT OF DISPUTES REGARDING RENT.

Dissent to the report of the Select Committee on the Bill to provide for enquiry into disputes regarding the rent payable in certain estates, and to prevent agrarian disturbances.

I AM of opinion that the Bill, as it is settled by the majority of the Select Committee, will do more harm than good. It is left to discretion of the Collector, or rather the Deputy Collector, to settle the principle on which the rent is to be fixed. This means the suspension of law and the promulgation of discretion, to which I cannot too strongly express my objection. If the council is not prepared to determine the principles on which the rent is to be fixed, the object of the Bill ought to be confined to the recovery of arrears of rent at existing rates, regarding which there seems to be great difficulty in case of combination of ryots to withhold payment. In my humble opinion, if the general law regulating rates of rent were amended on fair and equitable principles, and due facilities given for the realization of rent, the rent disputes, which are justly considered a scandle to good government, would be satisfactorily settled.

The 18th March 1876.

KRISTO DAS PAL.

RENT BILL OF 1877.

A Committee, consisting of Messrs. Reynolds, Mackenzie, O'Kinealy, Maharajá Jotendra Mohan Tagore, and the Hon'ble Baboo Kristo Das Pal, was appointed to draft a Bill to provide for the speedy realization of arrears of rent.

WHEREAS it is expedient to provide for the more speedy realization of arrears of rent : It is enacted
 Preamble. as follows : —

1. This Act shall extend to all those districts in the provinces subject to the Lieutenant-Governor of Bengal in which the Landlord and Tenant Procedure Act, 1869, is in force, and also to the province of Orissa ; and it shall come into force on the date of its publication in the *Calcutta Gazette* with the assent of the Governor-General.

Extent and commencement.

2. All rent of land payable by any ryot shall, for the purposes of this Act, be deemed to be due on the dates specified below, that is to say—
 What is an arrear of rent.

(1) When the ryot has agreed to pay his rent by specified monthly instalments, the amount of the instalments of the three previous months shall be deemed to be due on the first days of the months of Srabun, Kartick, Magh, and Bysack.

(2) Where no agreement has been made to pay by specified monthly instalments, the rent shall be deemed to be due in quarterly instalments on the first days of the aforesaid months of Srabun, Kartick, Magh, and Bysack ; and the proportion of each instalment shall be fixed by the Collector after local inquiry with reference to the custom of the district, and shall be notified by him in the manner prescribed by section 41, Act VII (B.C.) of 1876.

All rent which shall be due as above, and shall remain unpaid by sunset on any of the said quarterly days of payment, shall be deemed to be an arrear of rent, and interest on the same, at the rate of 12 per cent. per annum, shall be awarded by any court

giving a decree for the principal amount of the arrear in a suit on application under this Act.

Provided that where the payment of interest on unpaid monthly instalments has been stipulated
 Proviso.

for by any written engagement, any such interest which may have become due before the said quarterly day of payment shall, on the application of the plaintiff or applicant under this Act be added to the interest awarded under the last preceding clause of this section.

3. Every ryot who, on or before such quarterly day of payment, shall pay, at the māl cutcherry of the person to whom the rent is due, all instalments of rent then payable, shall be entitled to have a receipt, of which a counterfoil shall be kept in the cutcherry of the person to whom the payment is made. Such receipts and counterfoils shall bear consecutive numbers, and shall be bound together in books of not less than fifty receipts each. Neglect or refusal to give such a receipt shall be deemed to be a neglect or refusal to give a receipt within the meaning of section 11, Act VIII (B.C.) of 1869.

4. Notwithstanding anything contained in sections 33 and 34, Act VIII (B.C.) of 1869, it shall be lawful for any person to whom an arrear of rent (as defined in section 2 of this Act) is due from any ryot to make an application to the Collector for the recovery of the same. The application shall be made to the Collector in whose jurisdiction the lands of such ryot are situate, and the provisions of section 43 of the said Act VIII of 1869, shall be applicable to every such application.

5. The application may be either for the issue of a warrant of arrest, or for the issue of a notice to the ryot to pay the amount due, or for the issue of such warrant and notice simultaneously.

6. If the application be for the issue of a warrant of arrest, the Collector shall examine the plaintiff or his agent according to the law in force for the examination of witnesses, and shall inspect the documents adduced in support of the claim, and if *prima facie* it appear to the Collector that the claim is well founded, he may issue a warrant for the arrest of the defendant.

Provided that no such warrant shall issue for the arrest of a defendant not residing within the jurisdiction of the Collector.

7. The Collector shall fix a reasonable time for the return of the warrant, and the officer, entrusted with the service of the warrant shall, at the time of arresting the defendant, deliver to him a notice containing the particulars of the claim, and requiring him, if he contest the claim, to bring with him any document on which he relies in support of his defence.

8. Every such warrant and notice shall be respectively in the forms (A) and (B) in the schedule hereto annexed or to the like effect.

9. If the defendant be arrested under the warrant, he shall forthwith be brought before the Collector, who shall fix the earliest possible day for the hearing of the case.

10. The Collector may, if he think fit, require the defendant to give security for his attendance during the hearing of the case, and in default of such security, may commit him to the civil jail.

11. If it shall appear to the Collector that the arrest of the defendant was applied for without reasonable cause, the Collector may in his decree award to the defendant damages not exceeding two hundred rupees.

12. If the application be for the issue of a notice to the ryot to pay the amount due, the Collector may cause a notice to be served personally, if practicable, on the ryot, requiring him to pay the arrear due, or to appear before the Collector upon a date to be specified in the notice not exceeding twenty-one days from the date of the filing of the application. Such notice shall be in the form (C) given in the schedule herewith annexed, or to the like effect.

13. If for any reason the notice cannot be served personally on the ryot, it shall be affixed at his usual place of residence ; but if he have no place of residence in the village in which the land is situate, or within five miles thereof, the notice may be served by affixing it at the mál cutcherry of such land, or other conspicuous place thereon, or at the village chowree or chowpal, or at some other conspicuous place in the village in which the land is situate.

14. Every person applying to the Collector under section 4 shall provide some person on his part to point out defendant's person or place of residence. Plaintiff's agent must meet or accompany the serving officer, and to point out the person of the defendant in the case of the issue of a warrant of arrest, or the defendant's place of residence in the case of the issue of a notice to pay.

15. If the application be for the simultaneous issue of a warrant of arrest and of a notice to pay the amount due, the serving officer, if he is unable to arrest the defendant, shall serve the notice in the manner provided above.

16. If the application be for the arrest of the defendant, and he cannot be arrested under the warrant, the person to whom the arrear is due may apply for the issue of a notice under section 12, and such notice shall thereupon be issued by the Collector.

17. When the ryot is brought before the Collector under section 9, or attends in accordance with the issue of a notice under section 12, the Collector shall call upon him to make answer to the claim, and shall record his answer, and shall allow him to cross-examine the plaintiff or his agent, if he desire to do so.

18. If the ryot shall deny the title of the plaintiff to receive rent from him, or shall dispute the amount of the yearly rental claimed, the Collector shall refer the parties to the civil court, and shall also call upon the ryot to deposit the amount claimed or to furnish adequate security for the satisfaction of the demand.

19. If the ryot, when so called upon, shall fail within three days to deposit such amount or to furnish such security, the Collector shall proceed to try the case in a summary manner on the evidence then before the court, and shall give judgment accordingly.

20. Either party may sue in the civil court to set aside a summary decision of the Collector under the last preceding section; but the institution of such a suit shall not bar the execution of any decree which the Collector may have given under the said section.

21. If a case is referred to the civil court under section 18, and the person who has made application to the Collector does not institute a suit for the said arrear within two months from the date of the reference made by the Collector, the ryot may withdraw the amount deposited, or may cancel the security, as the case may be.

22. If the ryot shall admit that rent at the rate claimed was due, but shall allege that he has paid the same or a portion of the same, the Collector shall try the case. the same or a portion of the same, the Collector shall proceed to try the fact of such payment, and in

the event of his finding that such rent or a portion thereof has not been paid as alleged, shall pass a decree for the amount due, and may issue process of execution thereon in the manner prescribed by the Landlord and Tenant Procedure Act, 1869, or (in the province of Orissa) by the law in force for the execution of decrees in suits for the recovery of arrears of rent.

23. If the ryot does not pay the arrears due, nor appear

If ryot does not pay or appear, amount claimed to be due as if a decree had been passed.

before the Collector upon the date specified in the notice, and the Collector is satisfied that the notice has been duly served, the amount claimed shall be deemed to be due as if a decree for the same had been passed in a suit in which the ryot was the defendant, and the Collector may issue process of execution thereon in the manner specified in the last preceding section.

24. The provisions of section 18, for referring parties to the

Special procedure for civil court, and of section 20, for the institution of suits in the civil court to set

aside summary decisions of the Collector, shall not apply to the province of Orissa; but in such cases the Collector shall bring the case on the file of regular suits, and shall proceed to hear and decide it in due course of law, and shall call on the ryot to deposit the amount claimed, or to give security for the same, and suits to set aside summary decisions of the Collector under section 19 shall be instituted before the Collector.

25. Every application made under section 4 of this Act

Stamp duty on applications. shall be deemed to be a petition of plaint

for the amount claimed, and shall be liable to stamp duty accordingly.

Provided that when a case in which such application has been made is referred to the civil court under

Proviso. section 19, or (in the province of Orissa) is

brought on the file of regular suits under section 24, it shall not be necessary to file a second plaint, but the application shall be accepted by the court as a sufficient petition of plaint in the case.

26. There shall be no rehearing of any order, judgment,
 No rehearing allowed. or decree passed by the Collector under
 the provisions of this Act, but any person
 aggrieved thereby may institute a suit in the civil court under
 section 11, Act VIII (B.C.) of 1869, against the person making
 the application under section 4 of this Act, or (in the province
 of Orissa) may sue in the Collector's court under section 23 of
 Act X of 1859.

27. In this Act the word Collector includes a Deputy or
 Assistant Collector in charge of a sub-
 Definition of Collector. division, and also any Deputy or Assistant
 Collector specially vested by Government with powers under this
 Act.

28. No appeal shall lie as of right from any order, decree,
 No appeal from Collec- or judgment of a Collector under this
 tor's judgment. Act; but when such order, decree, or
 judgment has been passed by any officer other than the Collector
 of the district, it shall be competent to the Collector of the district
 to call for the record of the case, and to revise, modify, or set
 aside such order, decree, or judgment; and the order of the
 Collector of the district shall be final, unless the same be set aside
 in a regular suit as hereinbefore provided.

29. No application shall be entertained under this Act
 Collector to be satisfied except where it shall be shown to the
 that rent claimed is the satisfaction of the Collector that rent at
 same as that previously the same rate as that alleged to be due
 paid. has been the recognized rent of the hold-
 ing for which it is claimed for the year immediately preceding the
 period referred to in such application.

30. This Act shall be read with, and taken as part
 Act to be read as part of of, the Landlord and Tenant Procedure
 Bengal Act VIII, 1869. Act, 1869.



RENT BILL OF 1877.

With reference to the draft Bill the Hon'ble Baboo Kristo Das Pal, who was then at Simlah, recorded the following note.

I HAVE read the draft Bill to provide for the more speedy realization of arrears of rent, and desire to make the following remarks.

Section 2, clause 1.—I would not interfere with specific contracts.

Section 2, clause 2.—I would add “or part of a district” after the word “district.”

Section 3, line 6.—I would insert “printed” before receipt.

Section 5 and all sections referring to arrest.—I would omit all these provisions authorizing arrest before service of notice. I think it would be hard to arrest a defaulter before giving him an opportunity to make a defence. In my opinion the process of arrest is not necessary to ensure prompt payment of rent. A recusant ryot may choose to go to the civil jail at the cost of the rent-receiver, and thus put him to additional trouble. Besides, it is not fair that the defaulter should be at once arrested without being put upon his defence. Section 7 provides that at the time of arrest a notice may be delivered to the defaulter, requiring him, if he contests the claim against him, to bring any document upon which he relies for his defence; but he may not be able to do so at the spur of the moment. As for damages in case of arrest under a false pretence, that cannot be a sufficient satisfaction for loss of liberty.

The procedure of the Bill of Exchanges' Act may be followed in this case, under which eight days' time is allowed to the defendant to show cause why a decree should not be passed against him, and when the decree is passed, it may be at once enforced.

Section 12.—The Collector ought to see that at least one clear week's time be allowed to the defendant to make his defence. As

the section is worded, the notice may be served two hours before the expiration of twenty-one days from the filing of the application.

Section 13.—When the notice is not served personally, attestation of the service should be provided for as in the Putni Regulation.

Section 18.—I would recommend that, where the defendant shall admit part of the amount due by pleading a lower rate of rent claimed, he should be required to deposit that amount, failing which execution should issue. Security may be taken for any excess amount which the plaintiff may claim.

Section 19.—This section would be superfluous if section 18 be amended as proposed.

Section 20.—The double suit would simply complicate matters. If it be allowed, it would encourage the recusant ryot to withhold deposit and security and to harass the rent-receiver by a regular suit. Besides, it would multiply expense and trouble to both parties to allow this double suit, while it would not in the least facilitate the recovery of arrear of rent. As for the execution of the summary decree before the regular civil suit, I am afraid the rent-receiver would be generally reluctant to enforce it when he could not be sure of the result in the civil court. I would make the provisions of section 24 general. In fact, the summary trial ought to be done away with, and a regular trial ought to be held by the Collector, as in Orissa.

The difficulty of the rent-receiver, it is well known, begins when a decree is obtained, but this will afford no facility for execution of decree. I would provide that, after a decree is given, the decree-holder shall be allowed the following remedies : *firstly*, he may attach the goods of the defaulter ; *secondly*, attach his crops ; *thirdly*, attach his person, and *fourthly*, evict him. In order to ensure the speedy execution of the decree, the decree-holder should be allowed to avail himself of any one of the remedies he may prefer, and in case he chooses to proceed by

attachment of crops, or goods, or both, in the first instance if the amount decreed is not covered by sale-proceeds, he shall be competent to avail himself of the other remedies to which he has not had recourse.

SIMLAH,
The 12th June 1877. }

KRISTODAS PAL.

CALCUTTA MUNICIPAL ACT AMENDMENT BILL,

Dissent to the report of the Select Committee on the Calcutta Municipal Consolidation Act, 1876.

I dissent from the view taken by my colleagues as to the terms on which the Calcutta water-supply should be extended to the suburbs. I am quite willing to see the benefit of the Calcutta water-supply extended to the suburbs, but hold that this should not be done at the expense of the town. I am of opinion that the extension should be made either by admitting the Suburban Municipality into a co-partnership with the Calcutta Municipality, or by selling water to the suburbs on the ordinary commercial principle. According to the first view, it appears that the increased supply of water from the extension of the present scheme would be twelve millions of gallons, of which two-thirds would be kept for the town and one-third would be given to the suburbs. The cost of construction and maintenance of the works I consider should be divided between the town and the suburbs on the same principle and in the same proportion. This would involve a charge of Rs. 1,80,893 upon the suburbs per annum, which the Suburban Municipality says, it is not in a position to pay. To apply the commercial principle strictly would not be advantageous to the suburbs, for in that case the seller might well claim the right of selling his own commodity at his own price. Considering, however, the community of interests between the town and the suburbs, I am quite willing to charge the suburbs only the out-of-pocket expenses, which will be incurred by the town in extending to the suburbs. The data for the calculation of these expenses are roughly given in some of the papers of the Calcutta Corporation laid before the Select Committee. In calculating these expenses, the main point on which I am at issue with the majority is about the cost of the 62-inch main. I hold that a 42-inch main would double the supply of the town, that a 62-inch main would be necessary for the extension of the supply to the suburbs, and that the differ-

ence in the cost of the bigger main should in equity be borne by the latter. Following this principle the capital outlay on suburban works, including interest during construction, would be in round numbers Rs. 15,50,000. The other items are not disputed. The figures, which have been furnished to me by the Engineer to the Calcutta Corporation, stand thus—

	Rs.
Interest on capital outlay	77,500
Contribution to Sinking Fund at one per cent. ...	15,500
Working charges	38,000
Cost of renewal of works at five per cent. on iron works and one per cent. on brick culvert ...	38,000
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Total ...	1,69,000
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An equal rate for town and suburbs is delusive, for one per cent. rate on assessed house property in town is productive of nearly six times as much as the same in the suburbs, that is to say, while one per cent. rate produces in Calcutta about Rs. 1,30,000 per annum, the same for the area of the suburbs estimated yields Rs. 24,547 *per ditto*.

The maximum water-rate proposed for the suburbs is six per cent. per annum, and as one per cent. rate in the suburbs, for the area to be supplied with water, is calculated to be equal to Rs. 24,547, a six per cent. water-rate would yield Rs. 1, 47, 282 leaving a deficit of Rs. 21, 718. The question is whether the rate-payers of Calcutta can be fairly called upon to make up this deficit from their own pockets. It is on this point I am at issue with my colleagues, and as they would apparently saddle the town with this burden, I cannot agree with them. There are other points which I do not consider it necessary to notice here. I have no objection to the provision giving power to the Lieutenant-Governor to declare the suburbs as a part of the town for purposes of water-supply, but I think that the Government is bound to see that the

town is not made to bear the burden of the suburbs in carrying out the orders of Government. It is observable that when I accepted the concession of Government to reduce the contribution to the Sinking Fund on account of future drainage and water-supply loans from two per cent. to one per cent. on the understanding that the 62-inch main should be adopted in order to enable the Calcutta Corporation to extend the water-supply to the suburbs, I did not for a moment understand that the town should bear any portion of the legitimate burden of the suburbs. The reduction of the Sinking Fund contribution would be a benefit common to the town and the suburbs. It would be a relief to the present generation of tax-payers, both in the town and in the suburbs. To call upon the town to make up the deficit of the suburbs on account of the extension of the supply would be to neutralize the benefit accorded to it by the reduction of the Sinking Fund contribution—in fact, it would be taking away with one hand the boon which has been conferred by the other.

The 21st March 1881.

KRISTODAS PAL.
